

SARAH AUGUSTINE - 10/06/2022

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SUSAN SOTO PALMER, et al.,)
)
)
Plaintiffs,)
)
-vs-) No.
) 3:22-cv-05035-RSL
)
STEVEN HOBBS, in his)
official capacity as)
Secretary of State of)
Washington, and the STATE OF)
WASHINGTON,)
)
Defendants,)
)
And)
)
JOSE TREVINO, ISMAEL G.)
CAMPOS, and State)
Representative ALEX YBARRA,)
)
Intervenor-Defendants.)
)

REMOTE DEPOSITION OF SARAH AUGUSTINE

Thursday, October 6, 2022

9:00 a.m. PST to 4:00 p.m. PST

Witness Location: White Swan, Washington

REPORTED BY:

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WITNESS INSTRUCTED NOT TO ANSWER

(None)

INFORMATION REQUESTED

(None)

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THURSDAY, OCTOBER 6, 2022; SEATTLE, WASHINGTON

9:00 A.M. PST

SARAH AUGUSTINE,

having been sworn/affirmed on oath to tell the truth,
the whole truth, and nothing but the truth, testified as
follows:

E X A M I N A T I O N

BY MR. THRIFT-VIVEROS:

Q. Hi. Good morning, Ms. Augustine. Do you prefer if I
call you Ms. Augustine or Sarah?

A. You can call me Sarah.

Q. Okay. So my name is Deylin Thrift-Viveros, and you can
call me Deylin. I'm an attorney at the Mexican
American Legal Defense and Educational Fund known as
MALDEF, and we're representing the plaintiffs in the
Soto Palmer v. Hobbs litigation.

Are you familiar with the lawsuit?

A. I am.

Q. Okay. So please state your full name and address for
the record.

A. My name is Sarah Augustine. My address is 3500 Island
Road, White Swan, Washington 98952.

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1 Q. Okay. And have you ever been deposed before?

2 A. I have.

3 Q. Okay. So even though you've been deposed before, I
4 like to go over some ground rules so that we're on the
5 same page for this deposition. So to keep the record
6 as clear as possible, I'd like to ask that you be
7 mindful of only having one speaker at a time. I know
8 sometimes there can be a lag with the Zoom or, you
9 know, internet and everything, but I just like you to
10 wait until I'm done with my question before answering.

11 And your lawyer might make objections as well. And
12 I ask for him to wait for me to complete my question
13 before objecting. And once your lawyer completes his
14 objection, you must still answer the question that I
15 asked unless your attorney clearly instructs you not to
16 answer the question. And usually your lawyer is
17 preserving the right to object to the question.

18 So the court reporter can only record verbal
19 responses, so it's important that you answer out loud,
20 clearly with words rather than just nodding your head
21 or shaking your head.

22 Does that make sense?

23 A. Yes.

24 Q. Okay. And if you don't understand a question for any
25 reason, let me know. I'll try to clarify it. But if

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1 you do answer a question, I'll assume that you've
2 understood it.

3 Do you understand that?

4 A. Yes.

5 Q. Great. So, yeah, at any point, let me know if you need
6 to take a break. We can take one. I just ask that if
7 you're able to, to not ask for a break while a question
8 is still pending.

9 Is that okay?

10 A. Yes.

11 Q. So as you probably surmised, we are here to discuss the
12 redistricting commission process and the decisions that
13 were made throughout that process. And just to be
14 clear, you're not a defendant in this case. There are
15 no claims against you. We're taking depositions of the
16 commissioners, of commission staff to get a better
17 sense of how the legislative maps were created and the
18 processes and metrics used in creating these maps.

19 So in the State of Washington's initial
20 disclosures, you were identified as someone familiar
21 with the information received and considered by the
22 redistricting commission, the assessment of alternative
23 and draft map configurations and the approval and
24 transmission of the final maps to the Supreme Court and
25 to the legislature.

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1 Would you agree with this description?

2 A. Yes.

3 Q. Okay. And do you understand that all of your responses
4 are being recorded?

5 A. Yes.

6 Q. So you'll have an opportunity to review your answers in
7 a physical booklet after the deposition and make any
8 changes you deem appropriate, and then you'll sign it
9 under penalty of perjury.

10 However, if you make more than clerical changes,
11 like fixing a typo or something like that, I or another
12 lawyer may look and make comments on your changes at
13 trial, which could affect your credibility before the
14 judge or the jury. So it's just easiest to give the
15 best testimony possible today.

16 Do you understand that?

17 A. Yes.

18 Q. Great. And the court reporter has put you under oath,
19 which means that you're under an obligation to tell the
20 truth. And although we are in a somewhat informal
21 environment, that oath has the same force and effect as
22 if you were testifying in a court of law in front of a
23 judge or jury.

24 Do you understand that?

25 A. Yes.

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1 Q. Great. And then also, sometimes it might happen that
2 you give an answer as completely as you can in the
3 moment, but then later on you might remember something,
4 some information or you want to make a clarification
5 from a previous answer. So if that happens, feel free
6 to tell me that you'd like to add something to an
7 earlier answer, and then we can do it right then while
8 it's fresh in your mind.

9 Is that okay?

10 A. Yes.

11 Q. Great. And then lastly, if you don't know an answer to
12 a question, feel free to say so. We are entitled to
13 your informed estimate, but I don't want you to
14 necessarily guess at something. Like if it's a
15 timeline or something like that, if you can make a good
16 estimate, please do so. And if you don't know the
17 answer to the question, you can simply say so as well.

18 Is that okay?

19 A. Yes.

20 Q. Great.

21 MR. BOWEN: Deylin, before we get into a line
22 of question, can we get an objection by one party
23 preserves it for all? Does anybody disagree with that?

24 MR. THRIFT-VIVEROS: We're all in agreement to
25 that.

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1 BY MR. THRIFT-VIVEROS:

2 Q. So, Sarah, you mentioned that you were deposed before.
3 What lawsuit -- or what was the deposition in
4 connection with?

5 A. The deposition was in connection with the OPMA lawsuit
6 brought against the commission.

7 Q. And do you recall when you were deposed?

8 A. I don't remember the specific date. It was in 2022.

9 Q. Okay. Like in the spring, potentially, or winter?

10 A. In the spring.

11 Q. In the spring, okay. Had you been deposed for any
12 other issue prior to the OPMA lawsuit?

13 A. No.

14 Q. Okay. Have you ever been a party to a lawsuit?

15 A. Yes.

16 Q. Okay. And what was -- was it one or multiple?

17 A. One.

18 MR. MILLSTEIN: Object to form.

19 BY MR. THRIFT-VIVEROS:

20 Q. One. And what was that in connection with?

21 A. It was in connection with a boundary dispute and the
22 current ranch where I live with my family.

23 Q. Okay. To prepare for this deposition, did you meet
24 with anyone in person or by phone or Zoom in any way,
25 other than your counsel, to prepare?

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1 A. No.

2 Q. Okay. Did you meet with your counsel to prepare for
3 the deposition?

4 A. Yes.

5 Q. Okay. And about how many times did you meet?

6 A. Once.

7 Q. Okay. Did you discuss this deposition with anyone else
8 besides your counsel?

9 A. Yes.

10 Q. And who did you discuss this deposition with besides
11 your counsel?

12 A. I discussed it with my employer, because today is a
13 workday for me. So I scheduled to have this day off.
14 And I discussed it with my husband, asking him to care
15 for our child for this whole day including pick-up and
16 drop-off.

17 Q. Thank you for making the time to come to this
18 deposition and making those arrangements.

19 And so nobody else -- you did not -- excuse me.
20 You did not discuss this deposition with anyone else
21 besides the people you mentioned?

22 A. No one else.

23 Q. Okay. Did you review any documents in preparation for
24 this deposition?

25 A. I did.

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1 Q. And which documents were those?

2 A. I reviewed the documents related to the training that
3 we received, the commissioners received, and our
4 meeting on June 21st, 2021.

5 Q. Any other documents in preparation for this deposition?

6 A. No.

7 Q. And the training you received on June 21st, 2021, what
8 was that a training for?

9 A. It was a presentation by the person at the Attorney
10 General's Office felt to be the best expert to prepare
11 commissioners for following the Voting Rights Act.

12 Q. And when you say "following the Voting Rights Act," do
13 you mean in the process -- excuse me, in the process of
14 drafting the maps, ensuring compliance with the Voting
15 Rights Act?

16 A. Yes.

17 MR. MILLSTEIN: Object to the form.

18 BY MR. THRIFT-VIVEROS:

19 Q. Okay. I think we'll discuss that training a little bit
20 later on in this depo.

21 So during the redistricting process, what
22 communication devices did you use in the business of
23 conducting the redistricting?

24 A. I was issued a commission laptop and a commission
25 phone, and I used both of those devices. There were

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1 times when I went to Olympia, the office in Olympia,
2 and I worked with the independent staff that reported
3 to me in Olympia.

4 But I think I still -- I believe I still used my --
5 the laptop that was issued to me. Although, I might
6 have looked on with other staff there in the Olympia
7 office.

8 And prior to receiving that laptop, I used my
9 computer at the Dispute Resolution Center in Yakima,
10 which was my employer at the time. And that was maybe
11 for four weeks. So that would have been --

12 Q. So you were -- oh, excuse me.

13 What was that? Sorry.

14 A. -- in January.

15 Q. Oh. So for about four weeks when you first started,
16 you did not have a laptop for redistricting, and you
17 used the computer at the Dispute Resolution Center?

18 A. Yes.

19 Q. Okay. And as part of your duties on the commission,
20 did you use a specific e-mail address for redistricting
21 work?

22 A. I did.

23 Q. And what was that e-mail address, if you recall?

24 A. I'm embarrassed to say I don't recall specifically, but
25 I can give you an estimate of what I think it was.

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1 Q. Okay. And if it's inaccurate, that's okay. But, yeah,
2 what's your estimate?

3 A. I think it was sarah.washington at whatever the
4 extension is. I apologize. I don't really remember.
5 I could find that.

6 Q. Did you use a personal e-mail address to conduct
7 redistricting business?

8 A. I did.

9 Q. And what was that e-mail address?

10 A. I used that e-mail address until I was issued an e-mail
11 address from the redistricting commission.

12 Q. Okay.

13 A. And I can tell you that address.

14 Q. Yes, please.

15 A. director@drCYakima.org.

16 Q. And once you received your quote-unquote official
17 redistricting e-mail address, did you use your personal
18 e-mail address to do redistricting activities?

19 A. I believe that I did not. To the best of my
20 recollection, I did not use that e-mail address.

21 Q. Do you recall more or less when you received the
22 official redistricting e-mail address?

23 A. I believe it was similar to the laptop receipt, so
24 January 2021 perhaps, for three or four weeks.

25 Q. And you mentioned also you were issued a phone. Do you

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1 recall when you received that phone for redistricting
2 activities?

3 A. I don't recall the exact date. It came in a package.
4 So I received a phone and a laptop all in one package.

5 Q. Okay. And did you use your personal phone for
6 redistricting activities prior to receiving that
7 package?

8 A. I don't remember.

9 Q. Okay. For calls or for text messages, do you remember?

10 A. What I remember is the primary people I was
11 communicating with in that time period were the staff
12 of the -- so it would have been the chief of staff for
13 the senate and this -- I don't remember what the title
14 is for the house, but these were administrators who
15 were trying to prepare me.

16 So perhaps we spoke by phone. That could be. I
17 recall that primarily we were using e-mail.

18 Q. Okay. And once you received your official
19 redistricting phone, did you use your personal phone to
20 do redistricting activities?

21 A. I did.

22 Q. And about how frequently would you use your personal
23 phone for redistricting activities?

24 A. Perhaps a handful of times if I forgot my redistricting
25 phone or if the battery was dead. Not often.

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1 Q. Did you use your personal phone to send text messages
2 relating to the redistricting?

3 A. I did.

4 Q. Okay. And that kind of leads to my next question, but
5 were you asked to conduct any searches for documents in
6 response to public records requests?

7 A. Yes.

8 Q. And did you produce those documents?

9 A. I did.

10 Q. Okay. And did you include the text messages from your
11 personal cell phone related to redistricting
12 activities?

13 A. I did.

14 Q. Did you use any other messaging platforms besides
15 e-mail or text messages relating to redistricting work?

16 A. No.

17 Q. Okay. And when you produced -- or when you -- excuse
18 me.

19 When you did a search and production for
20 redistricting work -- sorry. Excuse me.

21 When you did a search for production in response to
22 public records requests related to your redistricting
23 work, who asked you to produce those documents?

24 MR. MILLSTEIN: Objection to form.

25 THE WITNESS: Lisa McLean.

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1 BY MR. THRIFT-VIVEROS:

2 Q. Okay. And Lisa is the executive director of the
3 redistricting commission; is that correct?

4 A. Yes.

5 Q. Okay. And how many times did Lisa McLean ask you to
6 conduct a search of your documents?

7 A. I don't recall exactly. It's possible that there was
8 more than one request.

9 Q. Okay. Did -- excuse me. Let me strike that.

10 What guidance did Lisa McLean give to you in
11 regards to searching your documents and records for
12 this production?

13 MR. MILLSTEIN: Objection to form.

14 THE WITNESS: She asked me to fully comply
15 with the request that she was processing. So she would
16 describe the request and provide a timeline to produce
17 the records.

18 BY MR. THRIFT-VIVEROS:

19 Q. Okay. When you first started as a commissioner, or I
20 guess at any point in the commission process, were you
21 given any guidance related to retaining communications
22 related to the redistricting work?

23 A. Can you please repeat the question?

24 Q. Yes. Either from the -- excuse me. Let me strike
25 that.

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1 At any time in the redistricting process, were you
2 giving guidance on retaining communications related to
3 the redistricting work?

4 MR. MILLSTEIN: Object to form. And I'll just
5 say, to the extent it's asking you for any
6 communications you've had with counsel, I'll ask you
7 not to answer on that but any other conversations or
8 guidance.

9 THE WITNESS: I'm sorry to be obtuse. I don't
10 understand the question yet.

11 BY MR. THRIFT-VIVEROS:

12 Q. That's okay.

13 So I'm asking if at any point when you were serving
14 on the commission, did anyone tell you, it could have
15 been Lisa McLean or anyone else, about the process or
16 requirements to retain all communications regarding
17 redistricting?

18 A. Yes.

19 Q. Okay. And who gave you that guidance?

20 MR. MILLSTEIN: Objection to form.

21 THE WITNESS: I don't recall, but it was
22 certainly pertaining to the OPMA suit and this suit.

23 BY MR. THRIFT-VIVEROS:

24 Q. Okay. I won't ask you that many more questions about
25 this but I just kind of wanted to clarify. Were you

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1 only given guidance on retaining communications related
2 to the redistricting work after the OPMA lawsuit was
3 filed or after this lawsuit was filed?

4 MR. MILLSTEIN: Objection to form.

5 THE WITNESS: I am having trouble with this
6 question for a couple of reasons: One is that it was
7 my intention to provide a clear record of everything we
8 did in this commission for the benefit of the next
9 commission. That was always an intention. I struggle
10 to remember who advised me specifically to retain
11 records, and the specific requests I remember were
12 pertaining to these cases.

13 BY MR. THRIFT-VIVEROS:

14 Q. Okay. So you mention you had an intention to provide a
15 clear record. What steps did you take personally to
16 act on that intention?

17 A. I asked for all of the minutes of our public meetings
18 to be archived, all of the reports that were generated
19 by the independent staff to be archived, for all of the
20 public comment that we received to be archived and for
21 a specific document on the process that we followed to
22 be drafted by Lisa McLean for posterity.

23 Q. And as far as you know, have all of those things that
24 you mentioned -- have all those things that you
25 mentioned been archived?

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1 A. Yes.

2 Q. Okay. And do you know who's in possession of the
3 archives?

4 A. I believe most of those documents are available to the
5 public on the archived website.

6 Q. Okay. Great. So even if it wasn't to prepare for this
7 deposition, have you reviewed any of the documents
8 filed in this case, for example, the complaint or
9 preliminary injunction motion?

10 A. I reviewed the complaint when it was issued.

11 Q. Did you -- excuse me.

12 Have you read any other documents filed in this
13 case?

14 A. No.

15 Q. Okay. Do you have an opinion on the complaint that was
16 filed?

17 A. I have an opinion about the impact of the complaint as
18 it pertains to my role as the chair, and that opinion
19 was printed in the Seattle Times.

20 Q. And do you have any documents with you today?

21 A. No.

22 Q. Do you have any --

23 A. Oh, I -- excuse me. I'll back that up and say I have a
24 file folder with the training that I described for you
25 earlier, which was held on June 21st.

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1 Q. Okay. Do you have any documents open on your computer
2 right now?

3 A. No.

4 Q. Okay. Do you have any notes with you today?

5 A. Nothing.

6 Q. Okay. So I know you reviewed -- excuse me. You
7 mentioned you reviewed the complaint and you wrote the
8 op ed in the Seattle times. Have you discussed this
9 lawsuit with anyone aside from your attorneys?

10 A. I pause because I have discussed the process of
11 redistricting with many people over many months. I do
12 not recall talking about this lawsuit specifically with
13 anyone, to the best of my recollection. However, I
14 have spoken extensively privately and publicly about
15 the process of redistricting.

16 Q. Okay. So, yeah, you mention that you haven't spoken --
17 but just perhaps to jog your memory, for example, have
18 you spoken with any of the commissioners, any of the
19 other commissioners from the commission, regarding this
20 lawsuit?

21 A. Nothing comes to mind, but it is possible. I pause
22 because it has been a long time, many months. And if
23 there was discussion, it would have been cursory and
24 related to logistics. I don't recall having an
25 in-depth conversation with the commissioners about

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1 this.

2 Q. Okay. And I guess, yeah, going to the op ed that you
3 wrote in the Seattle Times, I did read it, but I would
4 like to ask you to walk me through the events that led
5 to your resignation.

6 A. In the redistricting process, it was a priority for me
7 as chair to engage as much public input as possible.
8 And I believe, to the best of my knowledge, that we
9 engaged more public input than in any commission in
10 Washington State history, more than a million
11 communications.

12 And I took that role very seriously, putting the
13 voices of the public before the voting commissioners so
14 they would make informed decisions on behalf of all the
15 people of the state. That mattered to me to the extent
16 that one of the very first things I did as chair was to
17 get a values agreement from all four commissioners, and
18 that value statement was read in every public meeting
19 to show the affirmation of the collective values that
20 the voters and the residents of Washington State could
21 count on. And with that in mind, engaged as many
22 people as possible.

23 One of the very first tasks after hiring an
24 executive director was to hire an organizer. During
25 the time of COVID, it was very difficult to have

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1 interaction with the public. We created a strategy for
2 engaging as many voices as possible from the extremes
3 of political position all the way to the center, not
4 just parties, not just politically active people,
5 community members, using the public libraries, using
6 all manner of mechanisms, clubs, associations, chambers
7 of commerce to engage the widest range of people in
8 this process.

9 When I understood that the leaders of the
10 legislature in Washington State -- after the
11 legislature had affirmed the maps and they were the
12 law, my understanding is that they were not planning on
13 defending the law.

14 I -- the action that I felt I could take was to
15 resign at that time. Simply because the people I
16 believe I had created a social contract with, the
17 people who participated in the process, that those
18 voices would be included in the final product. It was
19 certainly my intention that the commissioners would be
20 accountable to that population.

21 And I believe, although this is simply a belief,
22 that the commissioners were responsive and responsible
23 to those voices. And for the state leaders to not join
24 our commission in defending what had been created, I
25 felt I was in the position where I could not accept

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1 that.

2 Q. So it's very admirable all the outreach work. And I
3 know that there was a lot of time and effort placed
4 into it. Is it your understanding that the legislative
5 leaders instructed the commissioners -- excuse me. Let
6 me take that back.

7 You mentioned that the legislative leaders were not
8 in favor of defending the maps. Is it your
9 understanding that the legislative leaders told the
10 commissioners, the two democratic appointed
11 commissioners, to not vote to defend the maps?

12 MR. MILLSTEIN: Objection to form.

13 THE WITNESS: I don't know what the democratic
14 leaders instructed anyone to do. I have no idea what
15 their instructions were and -- yeah.

16 BY MR. THRIFT-VIVEROS:

17 Q. Prior to the meeting in which you resigned, had you
18 notified any of the commissioners that you were
19 planning on resigning if they did not vote to defend
20 the maps?

21 MR. MILLSTEIN: Objection to form.

22 THE WITNESS: I think that you're referring to
23 a meeting where the commission was determining whether
24 or not they would act as an intervenor in this case. I
25 did not have any say into whether the commission would

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1 or would not do that. I made the decision to resign
2 before that meeting without the knowledge of anyone on
3 the commission. Because whether or not the commission
4 chose to be an intervenor had nothing to do with the
5 decision of the leaders in the Washington State
6 legislature.

7 BY MR. THRIFT-VIVEROS:

8 Q. I see. But prior to your resignation, had you informed
9 any other commissioners that you were planning to
10 resign?

11 A. No.

12 Q. Did you -- strike that.

13 You mentioned the meet in which the commission met
14 and voted not to intervene in this particular lawsuit;
15 is that right?

16 A. Yes.

17 MR. MILLSTEIN: Objection to form.

18 BY MR. THRIFT-VIVEROS:

19 Q. Did you have conversations with any of the
20 commissioners to persuade them to vote in favor of
21 intervening in this lawsuit?

22 A. No. I -- I guess I can just leave it at no. No. I
23 did not, I would not, huh-uh.

24 Q. And you say you would not. Why -- why do you say that
25 you would not have tried to persuade them to intervene

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1 in the lawsuit?

2 A. My purpose as chair was to provide the commissioners,
3 the voting commissioners, with the information and the
4 tools that they needed to make the best decision. It
5 was not my role to be part of the decision-making
6 process beyond being an impartial facilitator. And I
7 stuck to that role from beginning to end and instructed
8 all of my staff to do the same.

9 Q. Okay. I'm going to ask a few questions just about your
10 hiring -- sorry, your appointment to the commission.

11 Do you recall the date you were selected to serve
12 as a commissioner?

13 A. I don't.

14 Q. Okay. Do you recall the month, more or less?

15 A. It was January 2021.

16 Q. Okay. And when you were selected, were you selected
17 as -- specifically to serve as the nonvoting commission
18 chair?

19 A. Yes.

20 Q. Okay. And throughout the time from the time you were
21 selected to your resignation, did you work continuously
22 as the commissioner?

23 A. I did.

24 Q. Okay. Did you hold other jobs during that time?

25 A. Yes.

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1 Q. During the entire time, did you hold another job?

2 A. Yes.

3 Q. And was that job as -- sorry. Excuse me.

4 What was that job?

5 A. I served as the executive director of the Dispute
6 Resolution Center of Yakima and Kittitas Counties.

7 Q. So about how many hours per week did you work on
8 commission work?

9 A. Depending on the time frame, 20 to 30 hours per week.

10 Q. And your role as an executive director was a full-time
11 role as well?

12 A. Yes.

13 Q. That's an impressive amount of work. Do you recall the
14 process that led to your appointment as the chair of
15 the commission?

16 A. I recall from my point of view.

17 Q. Okay. Did you -- so, yeah, what was your point of view
18 on the process?

19 A. I was called by a staff member named Osta on a
20 Thursday. It was a cold call. I did not know Osta.
21 This was not on my radar. And she asked me to
22 consider. And I had a phone conversation with all four
23 of the voting commissioners between that time and the
24 Sunday meeting, at which time they appointed me.

25 Q. So you did not apply or send in an application for the

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1 role of commission chair?

2 A. If there was an application process, I was unaware of
3 it.

4 Q. Okay. And you said you were called by a staff member
5 named Osta. Is that Osta Davis?

6 A. Yes.

7 Q. Okay. And when she called you, do you know if she was
8 acting in the capacity of -- or strike that.

9 When she cold called you, do you know if she was
10 acting as a representative of the commission or of a
11 specific commissioner?

12 A. It was my understanding that she was calling on behalf
13 of the commission. At that time, I did not even
14 understand what Osta Davis's role was.

15 Q. Do you know if someone outside of the commission
16 recommended you -- or excuse me, strike that.

17 Do you know if anyone recommended to the commission
18 that you be appointed as the chair?

19 MR. MILLSTEIN: Object to form.

20 THE WITNESS: I don't know. I don't know
21 how -- no, I don't know.

22 BY MR. THRIFT-VIVEROS:

23 Q. Did you ask anyone either a commissioner, commission
24 staff or anyone else why you were cold called for
25 consideration as the chair of the commission?

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1 A. I may have had surmising conversation with Lisa McLean
2 many months later. Lisa also did not know. It was
3 curious to me.

4 Q. Okay. So I'm going to ask you some, I guess, a little
5 bit more personal questions, but did you grow up in
6 Washington?

7 A. No.

8 Q. Where did you grow up?

9 A. I grew up in Colorado and New Mexico.

10 Q. And how long have you lived in Washington?

11 A. I moved to Washington in 1998.

12 Q. And I believe you live in the Yakima Valley currently;
13 is that correct?

14 A. Yes.

15 Q. How long have you been living there in the Yakima
16 Valley region?

17 A. I moved to the place where I now live in 2006.

18 Q. And prior to that, 2006, where did you live?

19 A. Seattle.

20 Q. In Seattle, okay.

21 Did you go to college?

22 A. I went to graduate school at the University of
23 Washington and then at Antioch University.

24 Q. Was Antioch University your undergraduate?

25 A. I went to graduate school at both of those

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1 universities.

2 Q. Oh, okay. And where did you go to undergraduate?

3 A. University of New Mexico.

4 Q. Okay. And in your undergraduate university, what was
5 your major?

6 A. My double major was in sociology and psychology.

7 Q. And your postgraduate degree, what was the -- excuse
8 me. Let me strike that.

9 What was the topic or the major of your
10 postgraduate degree?

11 A. At the University of Washington, I was in a Ph.D
12 program in sociology where I studied organizations, and
13 I did not complete that work. I completed a master's
14 degree at Antioch University in whole systems design.

15 Q. Forgive my ignorance, but what is whole systems design,
16 briefly?

17 A. Yeah. Make sense out of that one.

18 Q. I know what each individual word means, but as a
19 collective, I don't.

20 A. Also organization, human systems.

21 Q. And when you say human systems and organization, is
22 that a sort of broad level of ethnic groups or societal
23 groups?

24 A. So in the discipline of sociology, organization is
25 thinking about how organizations are arranged and how

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1 they work together and how they're designed. There are
2 a variety of different theories to interpret that. I
3 studied that. And then at Antioch University, applied
4 that. So really thinking more high level human
5 systems, institutions, organizations and how those
6 things fit together.

7 Q. That's very interesting. Do you have any other
8 postgraduate experience?

9 A. No.

10 Q. Okay. And how long -- or strike that.

11 Are you currently working?

12 A. Yes.

13 Q. And in what position?

14 A. I'm the executive director of the Dismantling the
15 Doctrine of Discovery Coalition.

16 Q. And how long have you been working in that role?

17 A. Since July 1st, 2022.

18 Q. And was your immediately prior job as the executive
19 director of the Dispute Resolution Center?

20 A. Yes.

21 Q. And how long did you work at the Dispute Resolution
22 Center?

23 A. Five and a half years.

24 Q. Okay. And prior to that organization, where else did
25 you work?

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1 Sorry. Let's limit it to post college just for
2 ease.

3 A. Just to clarify, you want me to tell you everywhere
4 I've worked since I graduated from college?

5 Q. How many -- how many places was that, do you believe?

6 A. Probably quite a number.

7 Q. Okay. Let's make it a little easier. Have you --
8 prior to your experience on the redistricting
9 commission, had you done any work pertaining to map
10 making?

11 A. No.

12 Q. Had you done any work pertaining to voting rights?

13 A. No.

14 Q. Had you done work pertaining to race?

15 MR. MILLSTEIN: Objection to form.

16 THE WITNESS: Specifically, no.

17 BY MR. THRIFT-VIVEROS:

18 Q. Before the 2021 redistricting commission, had you
19 worked on previous redistricting cycles in any
20 capacity?

21 A. No.

22 Q. Had you worked on political campaigns for specific
23 candidates?

24 A. No.

25 Q. Had you worked on political campaigns for specific

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1 legislation?

2 MR. MILLSTEIN: Objection to form.

3 THE WITNESS: Yes.

4 BY MR. THRIFT-VIVEROS:

5 Q. And what legislation was that?

6 A. There was a bill, I believe that passed in 2020, that
7 was called the NICA Act. That's federal legislation.
8 I don't know the full name of that, of the law as it
9 stands, but I worked on the NICA Act until the time
10 that it passed as a volunteer.

11 Q. And when you say you worked on it, what do you mean by
12 that?

13 A. I collaborated with the senator who sponsored the bill,
14 with their staff to insert human rights language into
15 the bill.

16 Q. I'm sorry. What was that bill about in a general
17 sense?

18 A. It was the sanction bill tying compliance by the state
19 of Nicaragua with regulations of the United States.

20 Q. Do you identify as a latina?

21 A. I do.

22 Q. Okay. Are you Nicaraguan? Just wondering.

23 A. No.

24 Q. Okay. Are you familiar with demographics of the Yakima
25 Valley?

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1 A. Yes.

2 Q. And in a general sense, what can you tell me about the
3 demographics of the Yakima Valley?

4 MR. BOWEN: Objection. Form.

5 THE WITNESS: The Yakima Valley contains what
6 is arguably the largest Indian reservation in the state
7 of Washington. The population is just over 50 percent
8 Latinx. It is made up of a population of historical
9 growers who are from the dominant culture and those
10 people who have settled on the homeland of the
11 confederated bands and tribes of the Yakama Nation and
12 on the ceded territories of the confederated bands and
13 tribes of the Yakama Nation.

14 There is also a population of Filipino people that
15 live in the valley who have lived here historically as
16 settlers as well as a tiny minority of Japanese
17 settlers who have also participated in the agricultural
18 industry.

19 There is a small community of African Americans in
20 the city of Yakima.

21 BY MR. THRIFT-VIVEROS:

22 Q. Thank you. In your work as the executive director --
23 or strike that.

24 Does the Dispute Resolution Center, at least when
25 you were working there, generally serve the Yakima

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1 Valley?

2 A. Yes.

3 Q. And what kind of work does the Dispute Resolution
4 Center do?

5 A. The Dispute Resolution Center provides training tools
6 and interventions so that ordinary people can solve
7 their problems themselves. So they provide mediations
8 at a micro level.

9 They also provide systems level dispute resolution
10 interventions, including the creation of a massive and
11 successful community policing program that's community
12 driven.

13 We also intervene in workplace conflicts, conflicts
14 at the community level, such as between school board
15 and the parents that live in that school district, and
16 a whole other variety of things. They provide training
17 and resources to schools and school districts on
18 restorative practices and also other official
19 government institutions on restorative practices.

20 The Dispute Resolution Center also serves --
21 provides, serves as the facilitator in a variety of
22 statewide programs, including an eviction resolution
23 program that serves those people that are most
24 vulnerable of losing their homes.

25 The Dispute Resolution Center of Yakima and

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1 Kittitas County is a bilingual center. And in my
2 tenure, I took a center that had one staff of color to
3 a center that has now 70 percent staff of color that is
4 fully bilingual.

5 Q. That's great. Do you believe that members of the
6 Latino community in Yakima Valley face discrimination?

7 MR. MILLSTEIN: Objection to form.

8 THE WITNESS: Yes.

9 BY MR. THRIFT-VIVEROS:

10 Q. In what ways?

11 A. In the United States, there is policy that excludes
12 human beings from being able to participate in the
13 legitimate economic structure, and that leads to many
14 various social problems. I could list them for you,
15 but I'm sure you're familiar with them. So I would say
16 in the broadest sense, that's the first line of
17 discrimination with the exclusion of workers and
18 families from the legitimate economic structure, that
19 is having access to jobs.

20 There are secondary, tertiary forms of
21 discrimination for people, not only those who are
22 undocumented, but for their decedents.

23 Q. Do you know of any -- or strike that.

24 Going into the redistricting process, were you
25 aware of previous litigation in the Yakima Valley

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1 region around the Voting Rights Act?

2 A. Yes.

3 Q. Do you recall what litigation you were aware of?

4 A. I am aware that the city of Yakima was sued in order
5 that the city would -- district would provide
6 representation by district rather than having open
7 seating for the city council.

8 Q. Are you aware of other litigation in the Yakima Valley
9 region around the Voting Rights Act?

10 A. I believe there was also -- and maybe ongoing, I'm not
11 sure -- litigation at the county commission level as
12 well.

13 Q. Do you have an opinion on the City of Yakima litigation
14 that you mentioned?

15 MR. MILLSTEIN: Objection to form.

16 THE WITNESS: Yes.

17 BY MR. THRIFT-VIVEROS:

18 Q. And what is that opinion?

19 A. In order for democratic institutions to function
20 properly, the populus has to believe in them. Open
21 city -- open seating in the city council in the City of
22 Yakima eroded the public's trust in the institution of
23 the city council itself. Providing representation by
24 district was a clear way of strengthening the
25 democratic institution of the city council.

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1 Q. Thank you. Going back to the -- your role as a
2 commissioner, can you describe to me as specifically as
3 possible what your duties were as the chair of the
4 commission?

5 A. My first duty was to stand up the institution. I began
6 by hiring an executive director, investigating where we
7 could have office space, setting up typical office
8 systems, including the procurement of business
9 machines, telephone numbers, connecting with HR to
10 create a process for hiring staff.

11 The very first job was in standing up the
12 institution. Because when I came on as chair, there
13 was nothing. There was nothing. And so throughout
14 that process, I was also the facilitator of every
15 meeting, so informing myself on the laws and
16 regulations that the commission was accountable to and
17 then facilitating meetings.

18 This included creating, at the front end, a process
19 that each commissioner, voting commissioner, could
20 believe in, and as a professional mediator, in the
21 hopes of creating common ground so that they would be
22 able to negotiate in a good way through a lengthy
23 negotiation process. So setting up that process was
24 another task.

25 The executive director and I then also had to

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1 ensure that we had regular RCWs that were in place that
2 were reflective of the work that we needed to do, and
3 also to our contemporary times. Those policies that
4 had been in place were antiquated, and it was important
5 to update them. And that is a difficult and lengthy
6 task, I can tell you.

7 So I would break that down in saying that one task
8 was supervisory in nature and administrative. Another
9 task was acting as a facilitator for a political body
10 that was born in conflict. And a third task would be
11 to comply with laws and policies, as I understood them,
12 that pertain to the agency.

13 Q. Yeah, it sounds like you wore many hats.

14 When you were appointed, what duties -- or sorry.
15 Strike that.

16 When you were appointed as the chair of the
17 commission, what duties were you given?

18 A. None.

19 Q. Did you report to anyone?

20 A. No.

21 Q. Was there any body, either a body, agency, person, that
22 could have removed you, for example, as a chair of the
23 commission?

24 A. I don't believe so.

25 Q. Okay. So I'm going to go into a few of the roles that

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1 you mentioned. As a mediator in the commission -- let
2 me strike that. I'm sorry.

3 Do you have any certification in mediation?

4 A. Yes. I'm what's called a senior mediator in the
5 Washington State system.

6 Q. Did that require some sort of coursework or training?

7 A. Yes. I was trained as a mediator in 2001 by the
8 Lombard Mennonite Peace Center. And then when I became
9 the executive director at the Dispute Resolution
10 Center, I was trained by -- you know, by the Dispute
11 Resolution Center according to the standards of
12 Resolution Washington, which is a statewide
13 association. And then, you know, accrued hours and
14 hours and hours of mediation to gain the status of a
15 senior mediator.

16 Q. In general, what kind of disputes did you mediate among
17 those hours and hours that you mediated?

18 A. Family mediation, which is often dissolution or divorce
19 and parenting plans; community mediation, which would
20 be especially within the K-12 system; community
21 mediation provided for the city related to tensions
22 around community policing; mediations within workplaces
23 and institutions where there was conflict going on
24 either between staff and the board or staff; many
25 mediations in universities and institutions of higher

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1 learning, various types; also with agencies at the
2 community level that were in conflict where that
3 conflict was impacting the community itself. So
4 multiple mediations between the police and other
5 agencies.

6 Q. Okay. Okay. And going back to your descriptions of
7 your roles, you mentioned you acted as a supervisor; is
8 that right?

9 MR. MILLSTEIN: Objection to form.

10 THE WITNESS: Yes.

11 BY MR. THRIFT-VIVEROS:

12 Q. And who did you supervise?

13 A. I supervised Lisa McLean, and she was empowered to hire
14 her staff and serve as the executive director and the
15 supervisor of her staff.

16 Q. Did you have the ability to remove Lisa McLean from her
17 position during the redistricting process?

18 A. Yes.

19 Q. Sorry. Someone is at my door.

20 Did you have any staff members yourself as a
21 commissioner?

22 A. All of the staff -- all the independent staff reported
23 to Lisa McLean. I had access to that entire staff, and
24 I met with them regularly. And so while Lisa was the
25 direct supervisor, I had the opportunity to benefit

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1 from those staff in a variety of different ways, but
2 Lisa was the supervisor.

3 Q. Okay. And were you involved in the hiring of the
4 independent staff?

5 A. I was involved in the hire of Lisa and then our
6 communications director.

7 Q. What was the name of the communications director?

8 A. Jamie Nixon.

9 Q. Were you involved in the hiring of Justin Bennett?

10 A. I believe I reviewed the CVs that came in, and I was
11 allowed to comment as a courtesy, but I wasn't directly
12 involved in those hires.

13 Q. And you mentioned that you met with the independent
14 staff regularly. About how often was that?

15 A. I believe we had a weekly staff meeting, to the best of
16 my recollection.

17 Q. And just to be clear, this weekly meeting was with you,
18 with Lisa McLean, with the independent staff; is that
19 correct?

20 A. That's right.

21 Q. Were any of the commissioners or the commission staff
22 present at those weekly meetings?

23 A. No.

24 Q. And at those weekly meetings, what did you generally
25 discuss?

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1 A. The redistricting commission is kind of like a musical
2 in that it unfolds in phases. So what we were
3 discussing directly pertained to whichever phase we
4 were in. In the beginning, it was really just getting
5 our apparatus up to recruit and host a massive number
6 of people in public testimony during COVID.

7 So it seems now, at this time in October of 2022,
8 that we've always known how to do this. But we haven't
9 always. And trying to set up the apparatus to do that
10 without systems failure took a lot of time and
11 planning. And a lot of our early days were really just
12 focusing on that.

13 Keep in mind also, we did not have data from the
14 U.S. census until very late in the game. I think maybe
15 even -- oh, gosh, I wish I remembered all this right on
16 the top of my head. But it was -- it was months late.
17 And so whereas we may have been crunching numbers with
18 census data, what we were doing was forecasting using
19 past census data. Trying to sort of, you know, think
20 through -- from my point of view, think through how to
21 provide the best information that we could to the
22 voting commissioners. And so what metrics could we
23 use?

24 You know, we also had to figure out this software
25 that -- you know, you only redistrict every ten years.

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1 So the software they used ten years ago was not -- I
2 mean, it took us quite some time to even get maps
3 figured out. I don't mean -- I mean just to look at
4 the districts as they are now using the software. I
5 mean, it was -- we spent a lot of time working on that.
6 So a lot of what we were doing was logistics. Most of
7 what we were doing was logistics.

8 Q. And what software were you referring to?

9 A. I'm embarrassed to say I don't even remember what it
10 was called.

11 Q. That's okay.

12 A. When I was a young thing, we used AutoCAD. But nobody
13 uses that. Like, that's so ancient. So that's --
14 those are the words that come into my mind. I don't
15 remember what it's called at this stage.

16 Q. I remember AutoCAD. But it was the map making
17 software?

18 A. Map making software is what I'm talking about, yep.
19 There was a lot of training. We were trying to even
20 figure out how to mess with it. And we were doing that
21 in the hopes that we would then be able -- "we" not
22 being me, those qualified staff who were trying to
23 train me, so that we could then train the commissioners
24 and their staff.

25 Q. And was that generally how the process went, that the

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1 independent staff did presentations or trainings for
2 the commissioners?

3 A. To the extent the commissioners were interested and
4 willing. But it was our intention to provide the very
5 best materials and preparation that we could in every
6 arena for the commissioners, the voting commissioners.

7 Q. Were any of the commissioners nonresponsive to these
8 map making trainings?

9 A. I don't remember the details. Towards -- towards the
10 lower, the -- I would say the fourth or the third sort
11 of quarter, as we were trying to imagine a way to do
12 negotiations, the independent staff and myself came up
13 with a variety of options for how those negotiations
14 could happen. And there was certainly a lack of
15 interest in learning about that.

16 Q. Can you elaborate a little bit more on that lack of
17 interest. Was it specific commissioners or --

18 A. All commissioners.

19 Q. All commissioners. And when you say lack of interest,
20 in the negotiation process, is that what?

21 A. In any negotiation process that I would recommend.

22 Q. Okay. Do you feel -- or strike that.

23 Do you believe that the voting commissioners had
24 their own negotiation process separate from the one
25 that you recommended?

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1 A. Yes.

2 MR. MILLSTEIN: Object to the form.

3 BY MR. THRIFT-VIVEROS:

4 Q. And what was that process generally?

5 A. I can tell you in a global way what we agreed on in our
6 open public meeting, which is that we would have a
7 house team and a senate team; and the house team would
8 negotiate the legislative districts, and the senate
9 team would negotiate congressional districts. Beyond
10 that, I do not know.

11 Q. And when you were referring to the lack of interest in
12 your negotiation style -- I guess, I don't know if
13 that's the right word -- but what were you recommending
14 that you felt there was a lack of interest in?

15 A. So that's a very complex answer, and I'll do my best to
16 describe it to you. Redistricting is a strange puzzle
17 where every decision that is made impacts every future
18 decision. So it can be very hard to -- it is a
19 difficult puzzle to figure out.

20 We were bound on both ends by time constraints. So
21 our census data was months late, and a new
22 constitutional amendment demanded that we complete by
23 November 15th instead of the previous, January 1st. So
24 we were squeezed on two ends.

25 So my design challenge was to figure out how to get

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1 through a negotiation -- a geographical negotiation
2 process on time in a matter of ten weeks. So the
3 process that I recommended was logistical in nature and
4 was just dealing with getting through geographies in a
5 quick way, so -- because you can't just go from left to
6 right. That's -- it doesn't work that way. You can't
7 go from corner to corner. It depends on populations.
8 You have to think about populations. And you also have
9 to think about geographical barriers. And there's all
10 kinds of things, variables to consider.

11 So my independent staff and I were crunching
12 through trying to figure out how we could come up with
13 a geographical negotiation process that would get us to
14 the church on time, so to speak. And the commissioners
15 just wanted to negotiate independent of any of that.

16 Q. Okay. Thank you. You mentioned that the commissioners
17 would vote -- or sorry, excuse me, that the commissions
18 would negotiate. The house commissioners would
19 negotiate for the legislative maps, and the senate
20 appointed commissioners would negotiate for the
21 congressional maps; is that right?

22 A. Yes.

23 Q. And you would call those diads; is that correct?

24 A. I called them diads.

25 Q. Whose idea was it, if there -- strike that.

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1 Whose idea was it to implement this diad structure?

2 A. I don't remember. I would have to go back and watch
3 the record. All of those decisions were made in public
4 meetings. It could have -- I might have suggested it.
5 I don't feel a great sense of ownership over it, but
6 certainly there was precedent for doing it that way.
7 And so, you know, when that was decided, I don't
8 remember what meeting that came about, but there seemed
9 to be general, you know, comfort with that idea.
10 Nobody voiced, you know, discomfort with it.

11 Q. Okay. Earlier you mentioned, in your weekly staff
12 meetings, that you would discuss metrics we could use.

13 Is that -- is that accurate that you said that?

14 A. Yes.

15 Q. What -- what do you mean by that?

16 A. There are a variety of variables around which you would
17 make decisions. So those variables had to do with
18 geographical placement, population and all -- I mean,
19 one of the -- one of the big ones that came out of the
20 independent staff was the public input. So thinking
21 through, you know, we were -- we were -- I wasn't. My
22 staff, the independent staff were generating
23 spreadsheets and also visuals of public input by all
24 kinds of region and across a variety of dimensions.

25 Q. Okay. And I understand that was one, if not the top,

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1 priority of you is to have as much public input as
2 possible.

3 Do you feel that the other commissioners shared
4 that sentiment with you?

5 A. I don't know what the voting commissioners, what their
6 sentiment was. It was a priority for me, and I had the
7 authority to ensure that that's what we did.

8 Q. So the commissioners never expressed one way or the
9 other their sentiment on having such a vast public
10 outreach effort?

11 MR. MILLSTEIN: Objection to form.

12 THE WITNESS: I don't recall hearing comment
13 one way or the other.

14 BY MR. THRIFT-VIVEROS:

15 Q. Who was in charge of public outreach in general?

16 A. Lisa as the executive director was directing the
17 outreach work. And to that end, she hired Daniel --
18 I'm trying to remember his last name -- with -- you
19 know, with my tacet agreement. I didn't sit in on
20 those interviews but Daniel was our outreach
21 coordinator.

22 Q. Okay.

23 A. Pailthorp. That's what his name is, Daniel Pailthorp.

24 Q. Did you have a lot of in-person public outreach events?

25 A. We had no in-person public outreach events.

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1 Q. Because of COVID, right?

2 A. That's right.

3 Q. And about how often -- so how would these public
4 outreach events usually take form, on Zoom?

5 A. They were on Zoom.

6 Q. And about how many public outreach events did you have?

7 A. Excuse me. Six months ago I could have quoted all of
8 this to you off the top of my head. I don't remember,
9 but I can tell you every -- every legislative district
10 had at least two.

11 Q. That's great. And I kind of want to understand the
12 process of collecting the public comments and folks
13 that people said -- or things that people said at the
14 public outreach events. And would -- yeah, basically
15 what was that process of gathering and then
16 synthesizing that information?

17 A. So every public outreach event is an open public
18 meeting, and it was recorded. Staff would then -- they
19 would attend those events but then also comb through
20 them. And a massive spreadsheet was generated with,
21 not only those people that came to open public
22 meetings, but also all the social media input, e-mails,
23 telephone messages, et cetera.

24 And all of that was paraphrased and put into a
25 spreadsheet that was searchable so that we could create

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1 metrics of input. All of that was shared with the
2 voting commissioners and their staff. They had full
3 access to it. It was stored on a shared drive.

4 Q. Did any of the voting commission or voting commission
5 staff express that -- to you, that they were using this
6 public outreach information in their map making?

7 MR. MILLSTEIN: Objection to form.

8 THE WITNESS: That was not expressed to me
9 personally, however, it was a common topic in staff
10 meetings. And the independent staff would often report
11 during those meetings, contact that they had with the
12 house and senate staff. And we would at times, you
13 know, troubleshoot how to address some of the issues
14 they were bringing forward.

15 So I believe it was used, but it was never
16 expressed to me personally.

17 BY MR. THRIFT-VIVEROS:

18 Q. Okay.

19 A. That I recall.

20 MR. THRIFT-VIVEROS: Okay. So we've hit the
21 hour and a half mark. How would everyone feel about
22 taking a ten-minute break?

23 MR. BOWEN: You bet.

24 MR. MILLSTEIN: That's fine.

25 Is that okay with you, Sarah?

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1 THE WITNESS: It is. I do want to request
2 that we -- that we break at noon, if you're open to
3 that?

4 MR. THRIFT-VIVEROS: Yes.

5 THE WITNESS: That would be very helpful to
6 me.

7 MR. THRIFT-VIVEROS: I'm already getting
8 hungry, so I'm looking forward to the noon break. But,
9 yes, we'll take a break at noon.

10 MR. MILLSTEIN: Real quick while we're
11 discussing this, Sarah, how long do you want to take
12 for lunch?

13 THE WITNESS: I would like to take a minimum
14 of 45 minutes, if that's acceptable?

15 MR. THRIFT-VIVEROS: I think we can take an
16 hour, if that's okay?

17 Okay. So for now let's go off the record.

18 (Recess 10:32-10:43.)

19
20 E X A M I N A T I O N (Continuing)

21 BY MR. THRIFT-VIVEROS:

22 Q. So you mentioned earlier that you didn't have any
23 commission staff assigned to you; is that correct?

24 Besides the general staff?

25 A. To the best of my recollection, yes.

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1 Q. Okay. Was there a primary map maker for the
2 independent staff?

3 A. Yes.

4 Q. Was that Justin Bennett?

5 A. Yes, Justin Bennett.

6 Q. Okay. Did you personally draw any maps?

7 A. No.

8 Q. Okay. Did you direct staff members such as Justin
9 Bennett to draw maps?

10 A. No. No. I mean, it's hard -- he was working with the
11 mapping software.

12 Q. Okay. Well, I guess, yeah, generally can you explain
13 the process of how a map would be created?

14 A. So in the process of negotiation, the parties in
15 negotiation would have to agree on the metrics around
16 which negotiation would occur. Once you establish
17 those metrics, you could start working through
18 geographies and building a map based on those metrics
19 of importance.

20 So, for example, we knew from the census data that
21 they were going to be -- you know, I don't remember
22 exactly how many. I think it was, like, close to
23 76,000 per legislative district. And, gosh, I don't
24 remember what it was for the congressional district.
25 So you have some parameters. You know that they all

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1 have to be the same size. We were really trying for
2 them to be within 1 percent.

3 So then you have to really determine, what are the
4 metrics that you're going to agree on? And then you're
5 going to start negotiating around geographies based on
6 those metrics. So the independent staff and I were
7 trying to create the best possible information for
8 agreeing on those metrics. You can't really figure out
9 what those metrics are going to be without looking at
10 data.

11 So you might say, okay, you know, we're going to
12 care a lot about, you know, how we're going to cross,
13 you know, the Cascade range, for example. That's a big
14 one. How is it going to happen? Because you can't
15 just -- you know, there's a geographical barrier.
16 That's why you can't go left to right and just say,
17 we're just going to catch 70-some thousand and just go
18 in consecutive order.

19 It doesn't work because they're -- because the
20 people who are testifying themselves are -- through
21 public comment and all the various ways, are saying,
22 this is my community of interest. So you're trying to
23 figure out where are communities of interest, what are
24 the boundaries around those communities of interest and
25 then what metrics are important within that.

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1 And so as we were working with a mapping software,
2 we were trying to figure out the best information to
3 provide to the voting commissioners for them to
4 determine what metrics were the metrics of import.

5 And I will tell you that they did not share that
6 with us. So while we did -- while the independent
7 staff did all this work to create this, they were
8 negotiating with metrics, I assume. But those metrics
9 were not shared with me. And if they were shared with
10 independent staff, I am not aware. They were doing
11 their process independent of us.

12 Q. What metrics did you and the independent staff
13 recommend?

14 A. So we weren't recommending metrics. We were saying,
15 here's all the universe of things that you could -- you
16 could look at. And so -- and there's quite -- you
17 know, there's quite a number.

18 I mean -- and certainly, you know, voting data is
19 part of that. And, of course, that is how historically
20 and traditionally -- I shouldn't say -- that has been
21 an important dynamic for redistricting historically.

22 And the voting commissioners who were appointed are
23 coming in with a perspective of what their -- what --
24 you know, what they're hoping to achieve in that
25 regard. So that's not an easy thing to achieve in that

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1 regard.

2 You would think, Hey, I will just use voting data.
3 Well, which voting data will you use? Will you use
4 that data for state races? Will you use local races?
5 Will you use the most recent voting data? Will you
6 pull it over the past ten years, because geographies
7 change over time? These are all metrics to be messed
8 with, for example.

9 Q. And you don't know specifically what metrics the voting
10 members of the commission were using when creating
11 their maps?

12 A. No.

13 Q. Did you ever ask them, the voting members of the
14 commission, what metrics they were using in the
15 creation of their maps?

16 A. It was certainly discussed.

17 Q. And what were -- what did you discuss?

18 A. It is my opinion, although you will have to ask them,
19 much of what they were negotiating almost to the end
20 was those metrics. So I don't know that anyone was
21 trying to keep that from me. I'm not sure they had
22 that resolved until the very end.

23 Q. Okay. And to narrow sort of what you're referring to
24 by metrics, do you mean specific races to use or
25 looking at racial demographics, for example?

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1 A. The priorities of the commissioners were stated in
2 their public statements that are listed on the website.
3 So along with the rest of the public, I learned what
4 their priorities were through those statements. And I
5 assume, because I actually believe in the integrity of
6 all four of those commissioners, that they followed
7 those priorities that they stated to the public.

8 Q. Going back kind of to the process of the map making, I
9 just want to have a sense of sort of the dynamics
10 between the -- an individual commissioner who is
11 creating a map and the independent staff.

12 How would that process work generally?

13 MR. MILLSTEIN: Objection to form.

14 THE WITNESS: From my point of view, the
15 independent staff offered multiple -- multiple times
16 over a long period of time sort of a menu of options,
17 and there was very little response to those offers.

18 BY MR. THRIFT-VIVEROS:

19 Q. And when you say "menu of options," what do you mean by
20 that?

21 A. For example, as we were looking at voter data and
22 trying to determine what kind of voter data to use,
23 like what race to use, we did a variety of mathematical
24 pooling to see what was the most neutral or the least
25 party influenced kind of data to use.

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1 So then we would say, Look, here are the tests we
2 ran, here are the options of data to use and this is
3 our recommendation.

4 Q. Can you give me an example of some recommendations that
5 you -- that the independent staff made?

6 A. I don't -- I don't remember, of course, exactly. But
7 I'm trying to remember, we did kind of -- we came up
8 with a pooled data option that was from -- I mean, I
9 think it was state races but it wasn't -- it was
10 like -- because, like, which state race? Are you going
11 to poll them all?

12 I mean, you're trying to say let's look at -- let's
13 look at one where there is a republican in a seat,
14 let's look at one where there's a democrat in a seat.
15 And then if you're looking over a decade, where have --
16 where is one where it's been more -- you know, it's
17 gone back and forth, for example.

18 Because you're trying to get, you know, the best
19 kind of indicator of where most voters are at, you know
20 what I mean, so that it's not -- so that it's not
21 heavily pooled to one party or the other, for example.

22 Q. Okay. Did you provide input to the voting
23 commissioners on how they should draw their maps?

24 A. My message that I repeated again and again was to care
25 for the input of all of the residents who bothered to

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1 provide input. To that extent, yes. However, I never
2 had direct conversations with any voting commissioner
3 expressing my opinion about what they should do. And
4 that was not solicited and not offered. That would
5 have been a violation of my ethics.

6 Q. Did you -- once a map was created, and let's say it was
7 publicly released by a commissioner, did you conduct
8 any analysis on those maps after they had been created?

9 MR. MILLSTEIN: Objection to form.

10 THE WITNESS: Yes.

11 BY MR. THRIFT-VIVEROS:

12 Q. What kind of analysis did you do?

13 A. When the four voting commissioners submitted for the
14 public their first round of draft maps, I asked the
15 independent staff to review where there was the most
16 overlap with the intention of identifying interests
17 that they held in common.

18 As a professional mediator, it was my opinion that
19 if we started with the places that they agreed on most,
20 we may be able to gain some traction in terms of
21 carrying on the effective negotiation.

22 Q. Would you ask Justin Bennett specifically or someone
23 else to conduct this analysis of where there's the most
24 overlap?

25 A. I would ask Lisa McLean, and she would direct her staff

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1 as appropriate.

2 Q. And did the independent staff produce, like, a report
3 explaining, this is where we have the most areas of
4 agreement and this is where we have the most areas of
5 disagreement?

6 MR. MILLSTEIN: Objection to form.

7 THE WITNESS: I don't remember reports
8 specifically, although I believe there must have been
9 reports.

10 BY MR. THRIFT-VIVEROS:

11 Q. Did members of the community submit proposed maps to
12 the commission?

13 A. Yes.

14 Q. Would you forward those maps to the voting
15 commissioners?

16 A. All of the maps were held on a shared drive. I don't
17 remember the details of communication, but I believe
18 the independent staff then sent a notice every time
19 there was a new map that was deposited into that shared
20 drive. There were many hundreds of maps.

21 Q. In your capacity as the chair of the commission, did
22 you meet with members of the state legislature?

23 A. Yes.

24 Q. Do you recall how many members you met with?

25 A. Two.

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1 Q. And who were they?

2 A. They were both from the house, so the minority leader
3 from the house and the speaker of the house.

4 Q. Do you recall what you discussed in those meetings?

5 A. I -- as I recall, I reached out to all four of them and
6 asked for meetings. And the meetings that I recall
7 were "getting to know you" kind of meetings, very
8 general, short half-hour, with those folks and their
9 staff.

10 Q. Did you meet with party officials who are not members
11 of the legislature in your capacity as the chair of the
12 redistricting commission?

13 A. No.

14 Q. So going back to the meetings with the specific
15 legislators, you didn't discuss -- or did you discuss
16 anything substantive regarding the maps or specific
17 districts?

18 MR. MILLSTEIN: Objection to form.

19 THE WITNESS: No.

20 BY MR. THRIFT-VIVEROS:

21 Q. No, okay.

22 And you mentioned before you held many, many public
23 outreach meetings. Who was -- strike that.

24 Did you attend most of these meetings, all of these
25 meetings or a few of these meetings?

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1 A. I believe I -- I believe in my tenure as chair, I
2 missed one meeting. And I don't remember if that was a
3 public outreach meeting. It could have been our
4 regular open public meeting.

5 Q. At these public outreach meetings, were you usually
6 accompanied by one or more voting commissioners?

7 A. I believe that every district had a full slate, at
8 least one meeting. And then in our second meeting --
9 our second round of meetings, there were -- I think
10 they split it up. So then we would have had two
11 commissioners per meeting in the second round. So most
12 of them made most of them, most of the meetings.

13 Q. So the first round was generally all of the
14 commissioners?

15 A. Yes.

16 Q. And the second round, when you said that it was split
17 up into two or two commissioners per meeting, was that
18 generally one republican appointed commissioner and one
19 democratic appointed commissioner?

20 A. Yes.

21 Q. Okay. Aside from these general public outreach
22 meetings, did you have meetings with organizations to
23 discuss the redistricting process?

24 A. Yes.

25 Q. Do you recall how many meetings you had?

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1 A. I do not.

2 Q. Can you give me a best estimate? Like more than ten or
3 more than 50, more than 100?

4 A. Fewer than ten. I responded to direct invitations to
5 make a public presentation.

6 Q. The public presentation that you just mentioned, what
7 was -- generally, what was the content of that
8 presentation?

9 A. The 101 of how redistricting works, why it is
10 important, how to get your constituency to public
11 meetings, the various venues for testimony, push -- a
12 push to our videos. I believe we produced seven
13 educational videos. It was educational in nature.

14 Q. In these meetings with these organizations, did you
15 discuss specific districts?

16 A. No.

17 Q. So you mentioned previously that you -- there was a
18 training on June 21st regarding the Voting Rights Act;
19 is that correct?

20 A. Yes.

21 Q. I have the minutes here. Let me -- I'll put into the
22 chat of the Zoom.

23 MR. THRIFT-VIVEROS: I'd like to get this
24 marked as Exhibit 1.

25 ////

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1 (Exhibit No. 1 marked
2 for identification.)

3 BY MR. THRIFT-VIVEROS:

4 Q. Do you remember this meeting and this presentation?

5 MR. MILLSTEIN: Counsel, just a moment. I'm
6 still saving the file.

7 MR. THRIFT-VIVEROS: Sorry. Did it go
8 through?

9 MR. MILLSTEIN: It's gone through on my end.
10 You have to save it. And I don't know for Sarah if
11 she's got it open yet either, so if you give us just a
12 minute.

13 MR. THRIFT-VIVEROS: No problem.

14 THE WITNESS: I don't have it open, nor will I
15 have it open until after lunch. It will take at least
16 two hours to download this file where I live because I
17 live in a rural area. It would be much more expedient
18 if you could share your screen. It would probably be
19 better to do it that way.

20 MR. THRIFT-VIVEROS: Let's do that. If I can
21 figure that out.

22 MR. MILLSTEIN: And, Sarah, if it helps, it's
23 just a PDF of the meeting minutes. So it might
24 download quicker.

25 THE WITNESS: Okay.

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1 MR. MILLSTEIN: It's not a large file.

2 THE WITNESS: Okay.

3 BY MR. THRIFT-VIVEROS:

4 Q. Has it shown up for you?

5 A. Got it.

6 Q. Great.

7 So do you recall this meeting?

8 A. Yes.

9 Q. Okay. Can you tell me who Brian Sutherland is?

10 A. Brian Sutherland is an assistant attorney general for

11 Washington State.

12 Q. Did you invite him to come speak at the meeting?

13 A. I believe Lisa invited him.

14 Q. Do you know why Lisa invited him specifically rather

15 than any other representative from the Attorney

16 General's Office?

17 A. Yes.

18 Q. And why is that?

19 A. I asked Lisa to find an educator for the commission to

20 review the Voting Rights Act and our obligations

21 pertaining to the Voting Rights Act. Lisa reached out

22 to the Attorney General's Office, and Brian Sutherland

23 was recommended for that purpose.

24 Q. Were there any specific reason why you asked Lisa to

25 find someone to give a presentation on the Voting

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1 Rights Act?

2 A. It was my understanding that the commission was
3 obligated to comply with the Voting Rights Act.

4 Q. Did you develop that understanding independently, or
5 did someone tell you that the commission is obligated
6 to follow the Voting Rights Act?

7 MR. MILLSTEIN: Objection to form.

8 THE WITNESS: I don't recall. I was connected
9 with Brad and Bernard, the two senior administrators
10 from the house and the senate, and also with, I
11 think -- I want to say really with Brad and Bernard,
12 who were coaching me in creating this agency, standing
13 up the agency.

14 And I had -- I asked for and received the primary
15 laws that we would need to comply with in this agency.
16 And I believe the VRA was presented in that way, but I
17 am -- I don't remember exactly if that came from Brad
18 or Bernard or from documents that I read related to the
19 last redistricting commission, their executive director
20 and chair, I might have read it and understood it
21 there.

22 BY MR. THRIFT-VIVEROS:

23 Q. Okay. So in the minutes, it mentions that some of the
24 commissioners asked questions. Did you have
25 conversations with the commissioners after this

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1 presentation about the Voting Rights Act?

2 A. Yes.

3 Q. About how many conversations did you have with the
4 commissioners after this presentation about the Voting
5 Rights Act?

6 A. I don't recall specifically, but I will venture that I
7 had at least one conversation with each commissioner
8 about the Voting Rights Act fairly soon after this
9 training or this presentation.

10 Q. Do you recall -- in your conversations with the
11 commissioners about the Voting Rights Act after this
12 presentation, do you recall how each commissioner
13 expressed to you their thoughts about the Voting Rights
14 Act?

15 A. That was not the nature of our conversation, that they
16 would share that with me. So, no, that wasn't shared.

17 Q. So what was the nature of these conversations?

18 A. I requested that they consider hiring -- that the
19 commission would consider hiring a consultant that
20 would work together with the commission to provide the
21 best -- the best advice regarding the Voting Rights
22 Act. So each of these conversations was requesting
23 that consideration.

24 Q. Whose -- who had the authority to hire a Voting Rights
25 Act consultant?

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1 MR. MILLSTEIN: Objection to form.

2 THE WITNESS: All decisions must be made in an
3 open public meeting with the majority of the
4 commissioners. So the majority of commissioners alone
5 would be able to authorize a hire such as that.

6 BY MR. THRIFT-VIVEROS:

7 Q. For example, Lisa McLean hired independent staff. What
8 distinguishes the staff that Lisa McLean hired and the
9 hiring of a VRA consultant?

10 MR. MILLSTEIN: Objection to form.

11 THE WITNESS: Lisa McLean was hired by me, at
12 my recommendation, but with the full participation of
13 all voting commissioners. So Lisa McLean was hired by
14 the commission. Then she was empowered by the
15 commission to hire her staff as the leader of our
16 employees.

17 But Lisa McLean, her contract was exactly like
18 anyone else, that the majority had to vote in an open
19 public meeting for her hire. And any -- anyone else
20 who would be providing counsel, any kind of advice to
21 us, would have to be -- that would have to be done in
22 an open public meeting with at least three votes of the
23 voting commissioners.

24 BY MR. THRIFT-VIVEROS:

25 Q. I guess my question is why was -- or strike that.

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1 The commission empowered Lisa McLean to hire her
2 staff, but what distinguishes her -- the staff that she
3 was able to hire as opposed to a voting rights
4 consultant?

5 Was there a clear line between who the commission
6 would have to vote on to hire versus the staff that
7 Lisa McLean was empowered to hire?

8 Was there a clear division between those two
9 categories?

10 MR. MILLSTEIN: Objection to form.

11 THE WITNESS: If -- if Lisa McLean had not
12 been empowered to hire her staff, then every staff
13 would have been -- had to be hired through a majority
14 opinion. But the commissioners, in an open public
15 meeting, voted to empower Lisa McLean specifically to
16 hire her staff. So that was the authority she was
17 granted by the commission.

18 No one else was granted any such authority or Lisa
19 was not empowered to do any such thing. All the
20 authority rested with the voting commissioners in a
21 majority. So that's the difference. Lisa was provided
22 that authority.

23 BY MR. THRIFT-VIVEROS:

24 Q. So sorry if I'm not asking as clearly as I could, but I
25 guess I'm just trying to understand, when you say that

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1 Lisa McLean was empowered to hire her staff, was there
2 a categorical these are the employees that you can hire
3 or not?

4 MR. MILLSTEIN: Objection to form.

5 THE WITNESS: To the best of my recollection,
6 there was a budget, and that budget determined how many
7 staff Lisa McLean could hire. Within that budget,
8 there was some discussion between Lisa and me about who
9 that staff should be. In an open public meeting, she
10 was directed to hire her staff by the commission.

11 BY MR. THRIFT-VIVEROS:

12 Q. Could Lisa McLean have hired a VRA consultant if the
13 budget allowed?

14 MR. MILLSTEIN: Objection to form.

15 THE WITNESS: I don't have any way of
16 answering that question, because I don't -- I don't
17 have -- I don't know.

18 BY MR. THRIFT-VIVEROS:

19 Q. Did the commission have a separate budget -- apart from
20 the budget set aside for Lisa McLean to hire her staff,
21 did the commission have a separate budget for hiring
22 consultants?

23 MR. MILLSTEIN: Objection to form.

24 THE WITNESS: To the best of my recollection,
25 like many budgets -- organizational budgets, there were

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1 line items. And there was a line item for staff. When
2 that staff slate came out, it was approved, I believe,
3 in an open public meeting. Because all decisions were
4 made in the open and in the public. So those staff
5 positions were created, the dollar amounts, all of that
6 was approved, in my recollection. That's what I
7 remember.

8 BY MR. THRIFT-VIVEROS:

9 Q. Okay. So going back to what you mentioned earlier,
10 that you asked Lisa McLean to conduct a search for a
11 Voting Rights Act consultant; is that correct?

12 A. Yes.

13 Q. And did she find a consultant for the commission?

14 A. She recommended a slate of consultants for
15 consideration.

16 Q. And did she give you that slate of consultants?

17 A. Yes.

18 Q. And what did you do with that slate of consultants?

19 A. She did share that report with all five commissioners.

20 Q. And did the commission vote on whether to hire a
21 consultant or not?

22 A. I believe that the commission did vote, or at least
23 there was certainly discussion. I don't remember if
24 there was -- if there was a vote, an official vote. I
25 would have to look in the minutes. There was extensive

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1 discussion, and I believe much of that discussion was
2 with counsel.

3 Q. When you say "counsel," is there someone specific
4 you're referring to?

5 A. I'm just saying that it was during executive session,
6 and it's privileged information.

7 Q. Apart from the discussions you had with counsel, can
8 you tell me what discussions the commission had around
9 the option to hire a Voting Rights Act consultant?

10 MR. BOWEN: Objection to form.

11 THE WITNESS: What I remember is there wasn't
12 consensus. There was simply not consensus, and I don't
13 mean -- what I mean specifically is there wasn't
14 consensus around which consultant or group of
15 consultants to hire.

16 BY MR. THRIFT-VIVEROS:

17 Q. So ultimately since there wasn't consensus around a
18 specific consultant, did the commission decide not to
19 hire a consultant?

20 A. That is an interesting phrasing. I imagine if you
21 assume that every nondecision is a decision, then the
22 answer is yes.

23 Q. Okay. Do you recall how many consultants were listed
24 on this slate prepared by Lisa McLean?

25 A. I don't recall. There were two or even three. At

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1 least two. No more than four. But I think there were
2 three.

3 Q. Do you remember their names?

4 A. I don't.

5 Q. Was one of them Matt Barreto from UCLA?

6 MR. MILLSTEIN: Objection to form.

7 THE WITNESS: Yes.

8 BY MR. THRIFT-VIVEROS:

9 Q. Do you recall if any of the commissioners were in favor
10 of retaining him as a consultant?

11 A. I would -- I will refrain from commenting on that
12 simply because you have access to the commissioners and
13 you can ask them that directly, and whatever I would
14 provide is hearsay. I don't remember directly, and I
15 can't speak with confidence about how much of that was
16 privileged, that conversation was privileged.

17 Q. Okay. Yeah, just to be clear, in this deposition, I'm
18 not asking you necessarily what other commissioners
19 thought but rather what other commissioners expressed
20 to you. And that is something that you can testify to
21 is what conversations you had with the commissioners.

22 A. Thank you for that clarification.

23 Q. Yeah. So I'm going to stop the screen share.

24 After -- do you recall when these conversations
25 around hiring of the VRA consultant occurred?

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1 A. It was in the summer of 2021. And I believe, to the
2 best of my recollection, it was after the release of
3 their first draft maps, the commissioners' first draft
4 maps. I believe it was certainly before Matt Barreto's
5 report came out and was published. But I can't tell
6 you the exact time frame.

7 Q. Okay. Did you ever talk with any of the VRA
8 consultants recommended by Lisa McLean?

9 A. No.

10 Q. Okay. Do you have a best estimate of the amount of
11 time between you asking Lisa McLean to go look for VRA
12 consultants and the ultimate decision to not hire a VRA
13 consultant?

14 MR. MILLSTEIN: Objection to form.

15 THE WITNESS: I don't recall.

16 BY MR. THRIFT-VIVEROS:

17 Q. Can you estimate whether it was a week, a month?

18 A. I would estimate between a month and two months, but I
19 don't feel confident.

20 Q. That's okay.

21 So after these discussions around the hiring of VRA
22 consultant ultimately resulted in the decision not to
23 hire a specific consultant, did you recommend later in
24 the process that the commission hire a VRA consultant?

25 MR. MILLSTEIN: Objection to form.

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1 THE WITNESS: The commissioners could not
2 agree to hire a consultant. I don't recall specific
3 discussion after that time.

4 BY MR. THRIFT-VIVEROS:

5 Q. Okay. I guess just to clarify for myself, did the
6 commissioners not agree on a specific consultant and
7 that was the reason why the commission didn't hire a
8 consultant, or was it that the commission didn't agree
9 whether to hire one or not?

10 MR. MILLSTEIN: Objection to form.

11 THE WITNESS: My recollection is that they
12 could not agree on a specific consultant or team of
13 consultants.

14 BY MR. THRIFT-VIVEROS:

15 Q. And when you say "team of consultants," do you mean,
16 like, two separate consultants that both the democratic
17 appointed commissioners and the republican appointed
18 commissioners liked?

19 A. Yes.

20 Q. Okay. Do you recall discussions with the commissioners
21 about why a commissioner did not want to hire a
22 specific consultant?

23 A. Those were not the kind of details that were generally
24 shared with me.

25 Q. So what kind of details were shared with you?

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1 A. In this time period, not a whole lot.

2 Q. Do you recall speaking with Commissioner Sims about
3 hiring a VRA consultant?

4 A. I do.

5 Q. What -- what was that discussion?

6 A. She was generally open to a VRA consultant as I recall.

7 Q. Do you recall if she was open to a specific consultant?

8 A. She was open to -- I don't remember who all was on the
9 slate, and it was much discussed, but she was open to
10 Matt Barreto.

11 Q. Was she open to -- I know you might not remember
12 everyone on the slate, but was she open to another
13 consultant besides Matt Barreto?

14 A. In my recollection, which is dim because this has now
15 been some time ago, that's what I remember is that she
16 was open to Barreto.

17 Q. Do you recall any specific reasons why she was open to
18 hiring him?

19 A. None shared with me.

20 Q. Do you recall conversations with Commissioner Graves
21 about the potential hiring of a VRA consultant?

22 A. Yes.

23 Q. Can you tell me what those discussions were?

24 A. He had a consultant that was the front runner in his
25 mind and I don't recall their name.

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1 Q. And he was different than Matt Barreto?

2 A. Yes, right.

3 Q. Did he express to you why he wanted this consultant?

4 A. No.

5 Q. What about Commissioner Walkinshaw? Did you have
6 discussions with him about the potential hiring of a
7 VRA consultant?

8 A. This is the most hazy. I may have discussed this with
9 Brady Walkinshaw, but I don't remember. I don't
10 remember any details, if we did talk about it. I'm
11 quite sure that I reached out to him. But of all the
12 commissioners, I communicated with him the least.

13 Q. And why was that? Why did you communicate with him the
14 least?

15 A. He was nonresponsive.

16 Q. Would he answer your e-mails?

17 A. Typically, no.

18 Q. If you gave him a call, would he answer?

19 A. Sometimes.

20 Q. Did he ever give you a reason why he was nonresponsive?

21 A. He often talked about being busy, which I believe. He
22 was running a very large media concern. And I would
23 note, all five commissioners were working full time.

24 Q. And then do you recall conversations with Commissioner
25 Fain --

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1 A. Yes.

2 Q. -- around -- okay.

3 Do you recall what you discussed with Commissioner
4 Fain?

5 A. He also voiced preference for a, you know, a specific
6 consultant on the slate.

7 Q. Was that consultant Brunell?

8 A. I honestly don't remember.

9 Q. Do you remember if that was the same consultant that
10 Graves was interested in hiring?

11 A. I don't remember specifically. There were -- there
12 were -- I believe there may have been more than three
13 that were presented and, you know...

14 Q. Okay.

15 A. Yeah, that's what I remember.

16 Q. So lastly on this topic, there was -- was there ever a
17 consideration of hiring one consultant that the
18 democratic appointed commissioners liked and one
19 consultant that the republican appointed commissioners
20 liked?

21 A. There was consideration of hiring a team that would
22 work together to advise the entire commission.

23 Q. And ultimately that idea of hiring a team failed; is
24 that correct?

25 A. Yes.

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1 Q. Okay. So apart from the June 21st, 2021, presentation
2 from Brian Sutherland, did anyone else give a
3 presentation to the commission on the Voting Rights
4 Act?

5 A. I don't recall.

6 Q. So what is your understanding of what is required under
7 the Voting Rights Act?

8 MR. MILLSTEIN: Objection to form.

9 THE WITNESS: I'm not an attorney, so I can
10 only give you an arm chair assessment. What I remember
11 is that sort of the landmark legislation is the
12 Gingles, you know, decision -- I guess I shouldn't call
13 it a decision -- but the Gingles decision, which talks
14 about the various requirements in regards to packing,
15 which is where you put members of a racial category in
16 one district to prevent them from having impact in more
17 than one district, or cracking, which is where you
18 divide members that were vulnerable -- I guess, by
19 vulnerable, I mean a racial category that would be --
20 that would have more power if they were in more than
21 one district, and divide them to dilute their
22 influence. And that both of these things would be
23 illegal under the Voting Rights Act.

24 I also understand that there are constitutional
25 requirements based on the 14th Amendment. And those

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1 constitutional requirements, under that -- in that
2 case, you would have to prove intent. And that for the
3 Voting Rights Act, you don't have to prove intent. And
4 I would say that would be the summary of what I
5 remember about the Voting Rights Act.

6 BY MR. THRIFT-VIVEROS:

7 Q. Okay. So after these failed talks to hire a Voting
8 Rights Act consultant, did you have conversations with
9 the commissioners about whether their maps complied
10 with the Voting Rights Act or not?

11 A. I don't remember specific conversation. What I
12 remember is when the Barreto report came out, if I
13 recall correctly, he felt that all the drafts maps
14 violated the Voting Rights Act, that is all four
15 commissioners had violated the Voting Rights Act.

16 And I remember discussion about being attentive to
17 that and striving to comply with the Voting Rights Act.

18 Q. Do you recall which commissioners you had discussions
19 with regarding compliance with the Voting Rights Act
20 after the Barreto report came out?

21 A. I remember talking with at least three of them.

22 Q. Which three?

23 A. Paul Graves, Joe Fain and April Sims.

24 Q. And do you recall, in their discussions, what they said
25 about the Barreto report?

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1 A. In my capacity of chair calling to remind commissioners
2 of their obligations, I was typically met with stoney
3 silence.

4 Q. Did any of the commissioners not express stoney silence
5 to you in these discussions about the Barreto report?

6 A. The Barreto report -- I don't remember specifically
7 talking about the Barreto report with anyone in detail,
8 with any commissioner in detail.

9 Q. Okay. Yeah, let me rephrase that question.

10 Did any of the commissioners not express the stoney
11 silence when you reminded them of their obligations, as
12 you said, as you stated?

13 MR. MILLSTEIN: Objection to form.

14 THE WITNESS: I mean, what I remember is that
15 those were cursory conversations with, you know, okay,
16 take it under advisement. There wasn't -- if there was
17 lengthy discussion, and I'm sure there was, it wasn't
18 with me.

19 BY MR. THRIFT-VIVEROS:

20 Q. So do you believe -- when you say the likely
21 discussion, do you believe between the commissioners
22 but not you?

23 A. I believe between the commissioners and their staff
24 and, you know, those people they were representing.

25 Q. And when you say "people they were representing," do

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1 you mean the legislative groups, the legislative
2 political groups?

3 MR. MILLSTEIN: Objection to form.

4 THE WITNESS: Yes. I don't know that, but
5 that's what I assume.

6 BY MR. THRIFT-VIVEROS:

7 Q. Okay. As far as you know, did any of the commissioners
8 take any steps to analyze their maps to ensure
9 compliance with the Voting Rights Act?

10 MR. MILLSTEIN: Objection to form.

11 THE WITNESS: What I know is what the
12 commissioners shared with the public in their draft
13 maps. I believe two commissioners revised their maps,
14 their draft maps, and published those revised maps.
15 That's what I remember. And the comments about those
16 maps are public knowledge, because they were submitted
17 along with their maps.

18 I also remember that Brady Walkinshaw commented on
19 the Barreto report in realtime. So I think he was in
20 the article that the report was embedded in, if I'm not
21 mistaken. So what I would know of his point of view
22 would have been expressed in that article.

23 BY MR. THRIFT-VIVEROS:

24 Q. As far as you know, did any of the commissioners
25 hire -- or strike that.

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1 As far as you know, did any of the individual
2 commissioners consult with anyone outside of the
3 commission regarding the Voting Rights Act and how
4 their maps comply with it?

5 MR. MILLSTEIN: Objection to form.

6 THE WITNESS: I do not know, but the article
7 that I read in the Seattle Times with the rest of the
8 public expressed that the senate had hired a consultant
9 to create a report. So I learned that with everyone
10 else.

11 BY MR. THRIFT-VIVEROS:

12 Q. Did each individual commissioner, and I know this --
13 strike that. I'm sorry.

14 You mentioned, yeah, the senate hired a consultant.
15 But did an individual commissioner have a budget to
16 hire a consultant if they chose to?

17 A. No.

18 Q. Okay. Did -- did the commission, each individual
19 commissioner have a budget to hire any staff at all?

20 A. None.

21 Q. Okay. Did you ever ask Justin Bennett to conduct any
22 sort of analysis around the Voting Rights Act on the
23 maps submitted by the voting commissioners?

24 A. Not per se.

25 Q. Did you ever -- and strike that.

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1 Did you ever recommend to any of the commissioners
2 that they conduct an analysis on their maps on whether
3 it complies with the Voting Rights Act or not?

4 A. I urged the commissioners to be aware of their
5 obligations to follow the law.

6 Q. Okay. I'm going to ask just a few more questions
7 before we go to break. You told me earlier what your
8 priorities were going into the redistricting process.

9 Did Commissioner Sims give you her priorities in
10 the redistricting process?

11 A. Commissioner Sims published her priorities along with
12 her first draft map, and I believe with her second
13 draft map. And I heard those priorities in an open
14 public meeting and in a variety of open public meetings
15 as those draft maps were discussed.

16 Q. Did she ever express her priorities to you apart from
17 those in the public meetings or the publicly released
18 comments?

19 A. Yes.

20 Q. And what did she tell you?

21 A. I was directly involved in negotiation between April
22 Sims and Paul Graves in the weekend preceding the final
23 vote on the maps, and I learned during that time many
24 details of how that negotiation was going. And so
25 through that negotiation, I learned her priorities at

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1 the tail end of the negotiation about the few districts
2 that were being discussed at that time.

3 Q. Okay. And do you recall what she told you were her
4 priorities in that last weekend?

5 A. In that last weekend, there was much discussion about
6 the 44th and the 28th. And at that time, the only
7 metric that I know that was being discussed for those
8 specific districts in the last three days of the
9 negotiation process were voter data, party affiliation
10 data.

11 Q. Specifically party affiliation data or other voting
12 data?

13 A. Voting data. I would say voting data related to party
14 affiliation.

15 Q. So how an individual voter voted in previous elections?

16 A. Yes.

17 MR. MILLSTEIN: Objection to form.

18 BY MR. THRIFT-VIVEROS:

19 Q. Do you remember what the previous elections the
20 commissioners looked at in establishing their metrics?

21 MR. MILLSTEIN: Objection to form.

22 THE WITNESS: I don't recall what they finally
23 landed on. It may have been -- it may have been the
24 secretary of state race, but I don't remember if
25 that's -- if that's what it was. Maybe it was down to

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1 one race. I don't remember.

2 BY MR. THRIFT-VIVEROS:

3 Q. Okay.

4 A. They could tell you.

5 Q. Did Commissioner Walkinshaw give you his priorities in
6 the redistricting process, apart from what he mentioned
7 in public?

8 A. No.

9 Q. Okay. Did Commissioner Graves give you his priorities
10 in the process, apart from what he mentioned in public
11 meetings or public statements?

12 A. Yes, as it pertains to the final three days of
13 negotiation pertaining to two or three districts. I
14 believe it was the 28th and the 44th, and there may
15 have been -- maybe the 21st was under discussion.

16 Q. Sorry. Can you repeat that? It was breaking up a
17 little bit. I got the 28th and the 44th and?

18 A. And it may have been the 21st. But really we ended up
19 talking most about the 28th and the 44th.

20 Q. Okay. And those are the two priorities for
21 Commissioner Sims as well; is that correct?

22 A. That was the substance of that discussion, yes.

23 Q. Got it.

24 Okay. Did Commissioner Fain ever give you his
25 priorities in the redistricting process?

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1 A. Not beyond what he issued to the public.

2 Q. Okay.

3 A. And I also want to state here that I believe in the
4 integrity of the four commissioners, and I believe that
5 the priorities that they stated publicly were truly
6 their priorities.

7 Q. Did any of the nonindependent staff give you their
8 priorities in the redistricting process?

9 A. Not that I recall.

10 MR. THRIFT-VIVEROS: Okay. I think this is a
11 good time to go off the record and take a break.

12 (Recess 11:54-1:01.)

13

14 E X A M I N A T I O N (Continuing)

15 BY MR. THRIFT-VIVEROS:

16 Q. So I just have a few more questions about the Voting
17 Rights Act generally and how the commission worked with
18 it.

19 First off, do you know if any of the commissioners
20 or their staff conducted a racially polarized voting
21 analysis?

22 MR. MILLSTEIN: Objection to form.

23 THE WITNESS: I don't know. I don't know
24 that.

25 BY MR. THRIFT-VIVEROS:

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1 Q. Do you recall any conversations with the commissioners
2 regarding the amount of majority minority districts?

3 MR. MILLSTEIN: Objection to form.

4 THE WITNESS: Yes.

5 BY MR. THRIFT-VIVEROS:

6 Q. And who did you discuss majority minority districts
7 with?

8 A. In the last three days leading up to the final vote, I
9 was in negotiation with Paul Graves and April Sims.

10 And as they were working through that final
11 negotiation, this was a topic that came up.

12 Q. Was there -- strike that.

13 Did Commissioner Sims have an idea, or did she
14 express to you an idea, of how many majority minority
15 districts the legislative district map should have?

16 MR. MILLSTEIN: Objection to form.

17 THE WITNESS: She expressed conversation with
18 Paul about that in their negotiation, and I don't
19 recall the details of what she said. It was in
20 reference to their previous negotiations that I was not
21 privy to.

22 BY MR. THRIFT-VIVEROS:

23 Q. And those conversations between Commissioner Sims and
24 Graves that you were mediating and that you were aware
25 of, did the commissioners discuss majority minority

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1 districts in the context of the Voting Rights Act?

2 MR. MILLSTEIN: Objection to form.

3 THE WITNESS: As I've heard that discussed,
4 what I remember is reference to making sure there was
5 compliance with the Voting Rights Act. And that was a
6 topic of conversation because there were, you know,
7 inconsistent interpretations of that.

8 But that was not really the topic under discussion.
9 It was -- you know, as I'm sure you understand, in any
10 negotiation, there are a series of trades. And so
11 there was discussion about the whole legislative
12 district map, you know, leading up to this final
13 negotiation and the final two districts, if that makes
14 sense.

15 And in my presence, anytime a majority minority
16 district came up, commissioners were very careful to
17 refer to the Voting Rights Act in compliance with the
18 Voting Rights Act.

19 BY MR. THRIFT-VIVEROS:

20 Q. You said that the commissioners had different
21 interpretations of what constitutes requirements under
22 the Voting Rights Act; is that correct?

23 A. That was my sense.

24 Q. And what -- why did you have that sense that they had
25 inconsistent interpretations?

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1 A. In this final three-day discussion that I was a part
2 of, there was shorthand that was being used, as they
3 were referring to previous agreements they had made.
4 And I wasn't taking notes or, you know, asking for
5 details or calling them out on that. I was really
6 focused on negotiating the final two districts. And so
7 I would say that was an impression that I had.

8 Q. Okay. I'm just trying to glean where that impression
9 came from. What conversations were there that caused
10 you to believe that there were inconsistent
11 interpretations?

12 MR. MILLSTEIN: Objection to form.

13 THE WITNESS: These conversations were cursory
14 at best. It was more reference to previous decisions
15 that had negotiated agreements that had been made. So
16 it would have, you know, been -- I mean, I really -- I
17 really can't re-create it. I happened to be there as
18 they were talking about -- you know, I remember it
19 being referred to. But there wasn't direct
20 conversation about it, and I didn't ask for details,
21 because it wasn't really an issue in the 44th or the
22 28th that was raised in my hearing.

23 BY MR. THRIFT-VIVEROS:

24 Q. Were you involved in discussions between Commissioner
25 Sims and Commissioner Graves regarding the legislative

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1 districts in the Yakima Valley region?

2 A. What I remember hearing was reference to anxiety that
3 the Yakima Valley, the 15th -- the 14th and the 15th
4 would be the major sticking point and sort of interest
5 that, Oh, well, it turns out that's not really what
6 happened here. The 44th was. So that was the sort of
7 reference. I don't remember discussion beyond that.

8 Q. And when you say "major sticking point," you mean major
9 sticking point in the negotiations between Sims and
10 Graves?

11 A. Yes, regarding the legislative district map.

12 Q. Did it -- as far as you know, did any of the other
13 commissioners spend significant time in the Yakima
14 Valley region?

15 MR. MILLSTEIN: Objection to form.

16 THE WITNESS: I don't know that any
17 commissioners spent time in the Yakima Valley beyond
18 our tribal consultation with the Yakama Nation.

19 BY MR. THRIFT-VIVEROS:

20 Q. Would it be safe to say that you were the most familiar
21 of everyone working on the commission with the Yakima
22 Valley region?

23 MR. MILLSTEIN: Objection to form.

24 THE WITNESS: The Yakima Valley is my
25 community, certainly. And April Sims supervised an

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1 employee also living in the Yakima Valley. I asked
2 April Sims at one point if she had conversation with
3 her direct report, this person who reported directly to
4 her, and she said she felt it would be inappropriate
5 for that conversation to occur. And I trust that. I
6 trust her integrity in that regard.

7 So I would say I would have the most lived
8 experience, yes, in the Yakima Valley.

9 BY MR. THRIFT-VIVEROS:

10 Q. Did any of the commissioners ask you questions about
11 the demographics of the Yakima Valley region?

12 A. No.

13 Q. Did any of the commissioners ask for your advice on the
14 drawing of lines in the Yakima Valley region?

15 A. No.

16 Q. Okay. Do you feel it would have been appropriate for a
17 commissioner to ask you about the demographics of the
18 Yakima Valley region for the purpose of drawing maps?

19 A. No.

20 Q. Okay. And you mentioned before trades, which, of
21 course, in every negotiation trades happen. Is it your
22 understanding that a majority minority district in the
23 Yakima Valley region was subject of one of these trades
24 between Commissioner Sims and Commissioner Graves?

25 MR. MILLSTEIN: Objection to form.

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1 THE WITNESS: That was certainly not the
2 content of their negotiation around the 44th and the
3 28th.

4 BY MR. THRIFT-VIVEROS:

5 Q. Okay. But did you ever hear in reference, passing
6 reference, or in a proposal somewhere that the lines in
7 the 14th and 15th districts were part of a trade?

8 MR. MILLSTEIN: Objection to form.

9 THE WITNESS: No.

10 BY MR. THRIFT-VIVEROS:

11 Q. Okay. Beyond just looking at majority minority
12 districts, do you know if any of the commission -- any
13 of the commissioners or their staffs expressed to you
14 that they were looking at the ability of a minority in
15 a district to elect the candidates of their choice?

16 A. Yes.

17 Q. And who -- who did you discuss that with?

18 A. Brady Walkinshaw voiced that to me in conversation, and
19 in that same time period. And what he said to me was
20 consistent with his published position that's on --
21 listed on our website.

22 Q. So I understand that, yeah, his statement is listed on
23 the website, but in his conversation with you, what did
24 he say regarding that?

25 A. So I had a conversation with him. I went to see him to

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1 see how he was doing. I did this with all of the
2 commissioners multiple times throughout this three-day
3 period, just to check in and see how they were doing.

4 And it was an evening time. I think it was a
5 Saturday. And I asked how he was doing generally and
6 how he felt things were going generally.

7 He and Joe Fain were negotiating also. And he
8 voiced to me during that conversation, it's very
9 important to me that there is at least one majority
10 minority district.

11 But if I recall, and I don't recall exactly, that
12 there were two and possibly even three. He wasn't
13 talking about one. He had -- he cared about more than
14 one. And at the state level.

15 And so the way he was sharing that with me was
16 really sort of in a informal, casual way. And he was
17 also voicing his faith in Commissioner Sims to
18 negotiate that map, because he was not directly engaged
19 in that negotiation.

20 Q. Did you communicate that conversation with Commissioner
21 Walkinshaw to Commissioner Sims?

22 A. Absolutely not.

23 Q. Okay. And when he was talking -- when Commissioner
24 Walkinshaw was talking about one or two or possibly
25 three majority minority districts, was that in the

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1 context of compliance with the Voting Rights Act?

2 A. I don't remember a reference to it. I don't remember a
3 direct reference. What I remember is a very deep
4 commitment to his constituency. And that commitment,
5 when I say "constituency," I mean the residents of the
6 state of Washington.

7 Q. And when he was -- when Commissioner Walkinshaw was
8 referring to these potential majority minority
9 districts, was he specifically referring to the
10 districts in the Yakima Valley region?

11 A. Not in my hearing.

12 Q. He just said it in a general sense?

13 A. (Witness nods head up and down.)

14 Q. Okay. In part of that -- excuse me.

15 Did you have other conversations with Commissioner
16 Walkinshaw regarding the potential creation of majority
17 minority districts and the legislative map?

18 A. Not that I recall. That's the one I really remember.

19 Q. Okay. Did Commissioner Walkinshaw, in that
20 conversation that you had with him, did he discuss the
21 idea of an opportunity district, as in a district that
22 allows a minority population to elect a candidate of
23 their choice?

24 MR. MILLSTEIN: Objection to form.

25 THE WITNESS: I don't remember hearing that

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1 term, no.

2 BY MR. THRIFT-VIVEROS:

3 Q. And if not specifically that term but that general
4 concept, did he discuss that with you?

5 A. I don't remember that level of detail.

6 Q. Do you recall if he discussed the voting patterns of
7 Latino voters in the Yakima Valley region with you?

8 A. No.

9 Q. So in that conversation regarding -- with Commissioner
10 Walkinshaw regarding the creation of majority minority
11 districts, did you and Commissioner Walkinshaw discuss
12 anything else regarding the minority populations of
13 that area or the ability for -- or the voting patterns
14 or anything outside of, we should create a majority
15 minority district somewhere in Washington?

16 MR. MILLSTEIN: Objection to form.

17 THE WITNESS: I'm trying to remember if he
18 spoke directly about the Yakima Valley, and I honestly
19 don't remember. And there were many conversations
20 going on over, you know, three days without sleep. So
21 it's hard to recall exactly what was said and at what
22 time.

23 I remember that Commissioner Walkinshaw voiced a
24 very passionate priority around ensuring that people of
25 color would be adequately represented, and I just don't

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1 remember the exact detail.

2 BY MR. THRIFT-VIVEROS:

3 Q. Okay. Did -- did you ever direct either Lisa McLean to
4 direct Justin Bennett or Justin Bennett directly to
5 perform a racial voting analysis on any of the maps?

6 A. Yes.

7 MR. MILLSTEIN: Object to form.

8 BY MR. THRIFT-VIVEROS:

9 Q. Do you know how many times?

10 A. We were -- by "we," it's really Justin -- in meetings
11 with me and Lisa, and our team were once again trying
12 to develop appropriate metrics for use by the
13 commissioners. So we generated -- "we" being Justin --
14 generated many different maps with -- with metrics that
15 were created by him in conversation with the
16 independent staff.

17 But these were not -- it's -- you know, I don't
18 want to imply that we were creating maps for the
19 commissioners, because we were not. But we were
20 looking at a lot of data and often many maps in a row.
21 So we would adjust -- you know, Justin would adjust a
22 metric, and we'd look at it again. And then make
23 another adjustment, and look at it again.

24 And often you're looking at, you know, five or six
25 or ten or 15 different ways of looking at something.

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1 And the goal of this process is to provide the very
2 best data to the commissioners so that they would be
3 able to make informed decisions. So we certainly did
4 that related to the Voting Rights Act.

5 Q. Do you know if Justin Bennett was looking at voting age
6 populations or citizen voting age populations when
7 making these maps and metrics?

8 A. I think we were looking at all of those.

9 Q. Do you know for sure, or do you just think maybe?

10 A. As I said, when we were looking at -- as we were
11 creating different metrics, we would say, Let's look at
12 race. Okay, now let's look at you know, Hispanic. Now
13 let's look at Hispanic voting age. Now let's look at
14 all race voting age.

15 You know, many sequences of maps with all different
16 kinds of data. I cannot speak to how much of those
17 resources were looked at or used by the voting
18 commissioners or their staff.

19 Q. When Justin Bennett would create one of these maps,
20 would he e-mail them to you or to Lisa McLean or
21 what -- how would he convey this product to you?

22 A. Often I would come to Olympia, and we would sit in a
23 room for eight hours and do this.

24 Q. Do you know if those maps are archived anywhere?

25 A. Certainly if a tool was created, it would be archived.

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1 But in terms of those meetings, I'm not sure any of
2 that was saved. It was a brainstorming session.

3 Some of it might be saved. Justin would certainly
4 know that. Justin was extremely careful about sharing
5 everything created with every commission and every
6 staff member of every voting commissioner, and careful
7 about cataloging, making sure that was all uploaded.
8 All of those drafts, I don't know.

9 Q. Okay. Do you recall if Justin Bennett performed
10 analyses either in these metrics or maps regarding the
11 turnout rates of minority voters?

12 A. I don't recall, but if it was a piece of data, we
13 probably looked at it. I don't recall that
14 specifically, but we were looking at everything.

15 Q. Okay. And do you happen to know what set of data
16 Justin Bennett was using when producing these metrics,
17 as in the ACS data or before, you know, the census data
18 came out?

19 MR. MILLSTEIN: Objection to form.

20 THE WITNESS: I don't remember what data we
21 used for what metric. We were certainly looking at the
22 2010 census data before we had 2020 census data. And
23 then we were also looking at intermediate data and
24 voting data.

25 I don't -- I don't remember, you know, the sorting

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1 criteria. It depends -- from my point of view, we
2 would look at one thing and turn it and look at it
3 again, you know. So we'd say, Hey, let's look at the
4 2010 data first. Let's look at our most recent
5 imperfect data. Let's look at it with the election
6 data. We were looking at it every which way.

7 BY MR. THRIFT-VIVEROS:

8 Q. And I understand that Justin Bennett produced a lot of
9 these metrics and maps for the benefit of the
10 commissioners in drawing their maps, right? Is that
11 correct?

12 MR. MILLSTEIN: Objection to form.

13 THE WITNESS: Yes.

14 BY MR. THRIFT-VIVEROS:

15 Q. Did Justin Bennett analyze through these contexts of
16 race and turnout, or whatever metrics that you
17 mentioned, did he apply those metrics to maps already
18 created by the commission?

19 MR. MILLSTEIN: Objection to form.

20 THE WITNESS: I don't remember. The maps --
21 the analysis I remember really focusing on with the
22 draft maps before we had census data was really looking
23 for overlap so that we could define collective
24 interest. We could look at the places where there was
25 the most distance and where there was the most overlap.

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1 BY MR. THRIFT-VIVEROS:

2 Q. I have an e-mail I'll share in the chat, and I'll
3 screen share it as well.

4 (Exhibit No. 2 marked
5 for identification.)

6 BY MR. THRIFT-VIVEROS:

7 Q. All right. Can you see this e-mail?

8 A. Yes.

9 Q. So it looks like an e-mail that April Sims had sent to
10 Paul Graves and then forwarded it to you, and you
11 forwarded it to Lisa McLean; is that correct?

12 A. Right.

13 Q. Okay. Do you recall receiving this e-mail?

14 A. Yes.

15 Q. Okay. So here Commissioner Sims made a proposal for a
16 map to Commissioner Graves. And one of the highlights
17 that she mentions is that the 15th Legislative District
18 is now 49.2 percent in ACS 2019 CVAP estimates.

19 Did you have any discussion with April Sims about
20 the fact that her -- this legislative district now was
21 lower than 50 percent?

22 A. I remember this conversation and trying to ask for the
23 basis of the negotiations that they had done up to this
24 point. What -- what were the criteria or the main
25 topics they were negotiating around?

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1 And so April sent this. And I forwarded it to Lisa
2 so that we could analyze it among the independent
3 staff. And then I drove to Olympia so that we could
4 look at it together.

5 And so what I remember is my independent staff,
6 that is to say Justin and Lisa and Daniel, and I sat
7 down so that they could brief me so I could come to the
8 negotiation fully informed and I would understand what
9 all the things, the details of what they were talking
10 about.

11 To this point, I had been excluded from the
12 negotiation. So this was the first time I heard what
13 the -- what was the main substance of their
14 negotiation. And so what I remember is April sent this
15 to me. I went to Olympia, looked at it with Daniel and
16 Lisa and Justin. And then came to the negotiation with
17 April and Paul equipped to talk about what they needed
18 to talk about.

19 And so what I remember is not -- I don't remember
20 having specific conversation about any of these bullet
21 points. What we were really focused on is the 44th and
22 the 28th. And this was context for me to help them
23 wade through that negotiation.

24 Q. So in your -- was it your understanding that everything
25 else other than those two districts that you mentioned

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1 were pretty much resolved at this stage?

2 MR. MILLSTEIN: Objection to form.

3 THE WITNESS: I understood that everything was
4 resolved until the governor appointed the secretary of
5 state out of the 44th to a state position. Then
6 everything went up in the air.

7 BY MR. THRIFT-VIVEROS:

8 Q. Can you give me a brief description of how that
9 appointment affected these negotiations?

10 A. I believe that prior to that appointment, the
11 legislative district map was close to being negotiated.
12 I think it was -- I don't know, but I think they were
13 close, if not essentially done. I don't know that, but
14 that's an assumption that I make.

15 Part of the agreement they made in the 44th -- and
16 I don't remember the details of what happened in the
17 44th. But part of the agreement they made was
18 predicated on the idea that, while a democrat was in
19 office in the 44th, he was a moderate democrat who
20 sometimes voted with republicans.

21 So there was assurance that -- you know, that
22 whatever deals they had made in the 44th were going to
23 be -- it would be -- it would -- I guess my
24 understanding is that the district composition -- it
25 felt like having a competitive district or making gains

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1 for democratic voters in that district would not be
2 terrible for the republican constituents to swallow
3 because there was a moderate democrat in the seat.

4 And so when that appointment was made, when the
5 secretary of state was appointed to that position, the
6 secretary of state, that undermined Commissioner
7 Graves' trust that Commissioner Sims was negotiating in
8 good faith. So he believed that she knew that was
9 coming and made a negotiation. And he felt very
10 foolish. So the main substance of our negotiation was
11 trying to reestablish trust between Paul Graves and
12 April Sims.

13 Q. Did you have any reason to believe that Commissioner
14 Sims knew about this appointment ahead of time?

15 A. I have no opinion about that. I believe, you know,
16 what April Sims said in the negotiation, which is that
17 she did not have any knowledge of that. And I trust
18 her integrity.

19 Q. Okay. When you took this proposal to the independent
20 staff for analysis, do you recall what the -- if any,
21 the conclusions were regarding the 15th Legislative
22 District?

23 A. Can you ask that again, please?

24 Q. Yes.

25 When you took this proposal, this latest proposal

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1 here, to your independent staff to look at, right,
2 before the last couple of days of the negotiations, do
3 you recall if there were any conclusions or discussions
4 about the 15th Legislative District?

5 MR. MILLSTEIN: Object to form.

6 THE WITNESS: So there were certainly
7 discussions. So if -- I don't recall exactly what we
8 discussed. But my guess is, based on what we had done
9 previously, we would have looked at all of these
10 different -- we would have looked at each one of these.
11 So we would have looked at the 2019 CVAP data. We
12 would have looked at the ASC 2019 data and compared
13 them all, just so that I would be prepared to talk
14 about this if it came up. So that I would have enough
15 information and knowledge to be a -- a reasonably
16 equipped, you know, partner in the negotiation.

17 BY MR. THRIFT-VIVEROS:

18 Q. Was there any concern about the 15th Legislative
19 District expressed by the independent staff?

20 A. No.

21 Q. Okay. And correct me if I'm wrong, but my
22 understanding from what you said, you're well prepared
23 on to discuss between the commissioners about all of
24 these bullet points but the legislative district --
25 15th Legislative District didn't come up for the --

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1 MR. MILLSTEIN: Object to form.

2 THE WITNESS: I don't remember that it came
3 up. And I felt very well prepared for that weekend.
4 And, you know, here we are nearly a year later. I
5 don't remember any instances really of that
6 conversation.

7 I also want to make one additional comment. My
8 expectations of the independent staff were high of Lisa
9 and her staff. The independent staff is to be
10 impartial and to comply with that at all times
11 regardless of what their personal opinions would be.
12 It was my ambition that they would not ever know what
13 each other's personal opinions were, that we would
14 operate with the highest level of integrity to ensure
15 that we would supply the best possible advice to the
16 commissioners.

17 BY MR. THRIFT-VIVEROS:

18 Q. Did you consider it a duty of the independent staff to
19 inform the commissioners if they believed that a map is
20 not compliant with the Voting Rights Act?

21 A. Yes.

22 Q. Okay. Do you recall a situation where a member of the
23 independent staff informed you or another commissioner
24 that a map was not compliant with the Voting Rights
25 Act?

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1 MR. MILLSTEIN: Objection to form.

2 THE WITNESS: No. While we looked carefully
3 at the Barreto report, no one on the independent staff
4 is an attorney or has specific expertise in the Voting
5 Rights Act. Our job was to supply the commissioners
6 with the best information that they could have so that
7 they could make the decision.

8 And I was very clear with all of my staff and with
9 the public and repeated over and over and over again in
10 open public meetings that I would not have my thumb on
11 the scale, that the commissioners were entrusted by the
12 public to make the best decision for everyone. And
13 that was their job to do.

14 The best way that I could help them to prevent
15 making decisions in violation of the Voting Rights Act
16 was: Number one, to make sure they were trained,
17 number two, to make sure they had regular access to
18 counsel to ask questions and to make sure that they
19 could check in on their decisions, and three was to
20 strongly encourage them to retain expert counsel to
21 make the best decisions possible. Beyond that, it was
22 their job to comply with all of their mandates.

23 BY MR. THRIFT-VIVEROS:

24 Q. Do you believe that the commissioners were sufficiently
25 trained in the requirements of the Voting Rights Act?

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1 MR. MILLSTEIN: Objection to form.

2 THE WITNESS: I don't know. Two commissioners
3 are attorneys. The other two commissioners had access
4 to professional staff supplied by the houses of the
5 legislature. I didn't question that. I felt they had
6 access to expertise. That was my job was to equip them
7 with expertise. Not my job to advise them on what
8 decision to make. My job to equip them so they're
9 prepared to make good choices.

10 BY MR. THRIFT-VIVEROS:

11 Q. If a commissioner wanted to speak to an attorney, a
12 counsel, regarding anything regarding the redistricting
13 maps, would they contact the office themselves or would
14 they contact you or how would that work?

15 MR. MILLSTEIN: Object to form.

16 THE WITNESS: Only one person was empowered to
17 make expenditures without a majority decision of the
18 commission, and that was Lisa McLean. As the executive
19 director, she was empowered to make decisions up to a
20 \$15,000. There was a \$15,000 cap. No other person,
21 including any commissioner, could spend commission
22 money without going to an open public meeting and
23 voting.

24 BY MR. THRIFT-VIVEROS:

25 Q. Did the commissioners have access to attorneys from the

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1 Attorney General's Office to discuss legal components?

2 A. The Attorney General's Office provided what I would
3 call a detail to us. I'm not saying that's what they
4 call it. I don't know what they call it. But we had
5 two attorneys that we consulted with regularly from the
6 AG's Office. And we consulted with them in open
7 meetings in executive session multiple times.

8 Q. Outside of these open meetings, do you know if any of
9 the commissioners consulted with an attorney, whether
10 from the Attorney General's Office or any other office,
11 regarding the compliance of their maps?

12 MR. MILLSTEIN: I'm just going to object to
13 the extent you are seeking anything that would be
14 covered by the attorney-client privileged, the joint
15 privilege of the commissioners and the discussions they
16 had.

17 MR. THRIFT-VIVEROS: So just to clarify, I'm
18 not asking about the substance but rather if this
19 communication happened.

20 MR. MILLSTEIN: But you are asking if they
21 were seeking legal advice about specific issues.

22 MR. THRIFT-VIVEROS: Okay. I can rephrase it.

23 BY MR. THRIFT-VIVEROS:

24 Q. As far as you know, did a commissioner contact an
25 attorney outside of these open public meetings to

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1 discuss redistricting?

2 A. I am going to try and summarize what I know in the
3 hopes that it answers your question. As the chair, I
4 spoke with AG folks regularly, very often. Sometimes
5 weekly or multiple times a week. Any communication I
6 had with the AG, the AG's Office or assistant attorney
7 general, was privileged to the extent that anything I
8 shared with them could be and would be shared with
9 every commissioner on the commission. That was the
10 agreement. Because the assistant AG represented the
11 commission, not individual commissioners.

12 So I don't know if that helps to answer your
13 question. I assume that all commissioners understood
14 that they had access to the Attorney General's Office,
15 with the understanding that whatever they ask and share
16 could be shared with the rest of the commission.

17 Q. Okay. Yeah, that's good to know.

18 And one last question about this: Did -- you
19 mentioned that there was a budget for consulting or
20 anything, and if someone went outside of that budget,
21 they would have to vote on it; is that correct?

22 MR. MILLSTEIN: Objection. Misstates prior
23 testimony.

24 THE WITNESS: We had monthly administrative
25 meetings. And every month at the administrative

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1 meeting, a budget was shared. At that time, Lisa
2 McLean would explain -- she would give a budget report
3 and explain what expenditure had been made.

4 It was a complex budget with multiple line items.
5 So as various aspects that were discussed, that was
6 uploaded to the internet so that everyone could have
7 access to it in open public meeting. Expenditures were
8 to be voted on, unless they were made by Lisa McLean
9 and under \$15,000. Anything over \$15,000 would have to
10 be voted on, and a majority of votes would have to
11 carry that decision.

12 BY MR. THRIFT-VIVEROS:

13 Q. Okay. And last question: When the attorney
14 representatives from the attorney general came and made
15 those presentations in the open meetings, was there any
16 sort of, like, fee arrangement that had to come out of
17 the commission budget to the Attorney General's Office
18 or anything like that?

19 MR. MILLSTEIN: Object to form.

20 MR. THRIFT-VIVEROS: Sorry.

21 THE WITNESS: Yes, we were charged by the
22 Attorney General's Office for the representation that
23 they provided to us.

24 BY MR. THRIFT-VIVEROS:

25 Q. Okay. Do you recall how much?

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1 A. No, but that is a matter of public record and would be
2 easily found on the website.

3 Q. Okay. I keep saying this is the last question, but I
4 guess one last question: Do you know if the attorney
5 general would bill per consult, or was it like a
6 general retainer agreement?

7 MR. MILLSTEIN: Objection to form.

8 THE WITNESS: I'm so thankful that I had a
9 highly competent executive director who managed details
10 of that nature. I don't recall, but luckily Lisa was
11 tracking all of that.

12 BY MR. THRIFT-VIVEROS:

13 Q. Okay. So now I want to talk a little bit about the
14 last couple of days of the negotiation, which we've
15 talked on a few times already. I'm going to share a --

16 MR. THRIFT-VIVEROS: Oh, Connie, if you aren't
17 already, that e-mail should be marked as No. 2. Thank
18 you.

19 So I'm going to share -- I'd like this to be marked
20 as Exhibit 3.

21 (Exhibit No. 3 marked
22 for identification.)

23 BY MR. THRIFT-VIVEROS:

24 Q. And this is a memo from Ali O'Neil to the senate
25 majority leader with kind of a timeline of the

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1 redistricting events. Have you seen this memo before?

2 A. I have.

3 Q. Have you read it fully?

4 A. Yes, very many months ago.

5 Q. Uh-huh. We're just going to refer to it because it's
6 as complete a timeline as I've seen from the last
7 couple of days.

8 Did you read a draft of this before Ali O'Neil sent
9 it to the senate majority leader?

10 MR. HUGHES: Object to form, specifically the
11 prolog.

12 THE WITNESS: No.

13 BY MR. THRIFT-VIVEROS:

14 Q. Sorry. I didn't hear your answer, Sarah.

15 A. No.

16 Q. Okay. And I know you read it a few months ago, but do
17 you feel this memo is relatively accurate?

18 A. No.

19 Q. Do you recall specifically where you disagree with what
20 the memo says?

21 And you can let me know if you want me to scroll.

22 A. Sure. I'll let you know.

23 MR. MILLSTEIN: And, Sarah, this is a
24 relatively small PDF. So you can download the whole
25 thing to review at your leisure.

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1 THE WITNESS: Okay. Thank you.

2 So this last bullet point, I don't -- that's not
3 what I remember. I would not provide a proposal from
4 one party to the other. I was mediating a direct
5 negotiation between two people, and I don't agree with
6 the way that's conveyed here.

7 So you can keep paging down.

8 Okay. You can keep paging down.

9 Many of the details that -- or that Ali lists here,
10 I was simply not privy to.

11 BY MR. THRIFT-VIVEROS:

12 Q. Okay. We can revisit the rest of the document, but I
13 have a few questions.

14 A. Sure.

15 Q. So the commission had a deadline to pass a completed
16 and final map by midnight on the night of
17 November 15th; is that correct?

18 A. That's right.

19 Q. Was it part of your duty as the chair of the commission
20 to ensure that the maps were passed by the deadline?

21 A. No, absolutely not.

22 Q. As far as you know, is there a single person that had
23 the duty to ensure that the maps were passed by this
24 deadline?

25 A. Maybe I need you to rephrase the question.

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1 Q. So you said you didn't -- or you said that you didn't
2 think that the -- ensuring the passage of these maps
3 were part of your duties as the chair; is that right?

4 MR. MILLSTEIN: Object to form.

5 THE WITNESS: When you say that, what I hear
6 in terms of passage of the maps, is that it's my job to
7 ensure that they vote and come to a vote where they
8 agree on the passage of maps. That is not my job.
9 That's their job. My job is to provide them with the
10 best facilitation that I possibly can. It's not my job
11 to produce maps. It's the voting commissioners' job to
12 do that.

13 BY MR. THRIFT-VIVEROS:

14 Q. Okay. So you don't take any responsibility for the
15 failure of the maps -- or the failure of the consensus
16 around the maps to be passed by midnight?

17 MR. MILLSTEIN: Objection to form.

18 THE WITNESS: I don't understand the question.

19 BY MR. THRIFT-VIVEROS:

20 Q. Do you take responsibility, any responsibility, for the
21 failure of the maps to be passed before the midnight
22 deadline?

23 MR. MILLSTEIN: Objection to form.

24 THE WITNESS: I'm reflecting on all the ways I
25 could interpret that question. I can probably think of

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1 at least three. So I will say no to all of that. I
2 did not take responsibility.

3 BY MR. THRIFT-VIVEROS:

4 Q. What were your three interpretations, if you don't mind
5 me asking?

6 A. Not at all.

7 One, that it's my job to get a final product, that
8 was not my responsibility. Two, to make sure that they
9 agree, also not my responsibility. Three, to produce
10 the physical objects themselves, no, not my
11 responsibility.

12 Q. Okay. So you mentioned that you disagreed with the
13 bullet point in the Ali O'Neil memo, the last bullet
14 point on Page 2; is that correct?

15 A. That's not how I remember that conversation going, and
16 I'm pretty sure Ali O'Neil wasn't in the room when we
17 were having the conversation.

18 Q. Okay. Did you -- did you act as a mediator that day
19 between Commissioner Sims and Commissioner Graves?

20 A. Yes.

21 Q. Can you explain to me what you did as a mediator on
22 that day?

23 A. I provided each of them the opportunity to be fully
24 heard by the other. I strongly encouraged them round
25 after round to think about every potential possibility

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1 for what could be, to expand the conversation beyond
2 rigid positions of the two parties to try and think
3 creatively about areas of give and to reestablish a
4 relationship of trust between the parties.

5 Q. Were Commissioner Sims and Commissioner Graves in the
6 same room for most of the day?

7 A. What day are you talking about?

8 Q. On November 15th.

9 A. November 15th. This is Monday.

10 What I remember is that on Monday there were
11 intermediate meetings followed by long periods of, you
12 know, breakout space where they would go and talk with
13 their staff. I believe in that breakout space what
14 they were doing was mapping the different scenarios.

15 Q. Were you going between the rooms that these
16 commissioners were located conveying offers or not?

17 A. No. In fact, I stayed in the central space, and they
18 came to me and periodically I would go and do
19 check-ins, not conveying offers but rather just
20 checking in to see if they were getting what they
21 needed and asking to see what additional things they
22 might need.

23 Q. Can you give me some examples of some additional things
24 that they might need?

25 A. Probably the thing that was most requested was time,

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1 just wanting more time. But, you know, this would be
2 the kind of thing where, is there -- is there someone
3 that -- that -- you know, is there -- could Justin
4 provide a service for you? Could Daniel provide a
5 service for you? So that just to help support your
6 staff as they're trying to map this.

7 Are there -- you know, are there metrics that we
8 can supply you with? Because when you start trying to
9 thinking outside the box, perhaps those metrics could
10 change. And so those were the kinds of things.

11 Q. Further down on Page 3 is the sixth -- sixth bullet
12 point -- fifth bullet point, sorry. Ali O'Neil writes,
13 "Just before 7 PM Commission staff member Justin
14 Bennett sent a calendar invite for a 'Final Map
15 Verification Meeting.'"

16 Did you request that meeting?

17 A. Yes, I did.

18 Q. Okay. Were you planning on requesting it at that time,
19 or did you come up with that idea at that moment?

20 A. That meeting was scheduled in an open public meeting,
21 the meeting just prior to this. So we had created a
22 calendar for how the final day would go, and we agreed
23 at that time that we would have -- that we would go
24 over the final maps at 7:00 p.m.

25 Q. And did you go over the final maps at that time?

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1 A. We did not.

2 Q. Okay. And then later on, this is Bullet Point 7, Ali
3 O'Neil writes: As it was initially explained to me at
4 a meeting on November 12th, commission staff were
5 supposed to join the public meeting every half-hour.

6 Do you recall if the commission staff were joining
7 the public meeting every half-hour?

8 A. If commission staff were joining at every half-hour?

9 Q. Yeah. That's what she wrote.

10 A. I don't recall who was attending those meetings every
11 half-hour. I was attempting to be on those meetings
12 every half-hour. And I think there was a long period
13 where nobody -- there was just, you know, a -- like a
14 placard or something. But I was the one who was in
15 that public meeting more than anyone else, is what I
16 remember.

17 Q. Okay. And then later on in the bullet point, she
18 writes, "Commissioner Augustine was telling staff and
19 the Commissioners that counsel was instructing them to
20 join the public meeting more frequently and give more
21 detailed updates on what they were discussing."

22 Would you agree with that?

23 A. I would agree that I encouraged the commissioners many
24 times to give updates during those meetings, yes.

25 Q. Okay. And during this time, were you still acting as a

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1 mediator between Sims and Graves?

2 A. From the time the public meeting started, my main job
3 was just running the public meeting. And that was a
4 fairly chaotic meeting because the teams were still
5 negotiating.

6 So this was what I understood. Prior to this
7 meeting, prior to 7 o'clock, there were two teams.
8 There was the house team, and there was the senate
9 team. And they were forming agreements and generating
10 agreements.

11 My understanding, as it was conveyed to me, was
12 that they then at that time switched. This was very
13 late in the game. We wanted to have all of this done
14 by Friday. But here we are at the 11th hour trying to
15 negotiate this. And at this time, there would then be
16 a republican team and a democratic team. And at this
17 time, they would be briefing each other on the maps.

18 Because they hadn't done that in an open public
19 meeting prior to that. You know, had we had the full
20 maps done at 7 o'clock, they would have been doing it
21 there. But now we're in a situation where, you know,
22 the democrats are briefing each other on what their
23 maps are like, and the republicans are briefing each
24 other on what the maps are like so that when they go
25 over it in the open public meeting, they'll be able to

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1 vote. Because the negotiation went so long that, you
2 know, they were needing to brief each other on what was
3 going on, what they were going to be seeing in these
4 proposals.

5 So there was a lot going on at that time. There
6 were a lot of conversations going on. And what I
7 understood -- and to put that another way, I guess,
8 what I understood is that's what was happening. The
9 republican team was meeting, and the democratic team
10 was meeting.

11 Q. Sorry. Going back to the last bullet point on Page 2,
12 I meant to ask. Although you disagree with the
13 sentiment of this bullet point, that Commissioner Sims
14 conveyed to the republicans a proposal on partisan
15 metrics through you, do you know if Commissioner Sims
16 conveyed a proposal to the republicans on partisan
17 metrics at all?

18 A. There were three people in the room, as I recall, Paul
19 Graves, April Sims and me. And there were many
20 proposals going back and forth during that time.

21 Q. Would you characterize any of those proposals as being
22 on partisan metrics?

23 A. They were about the 44th and the 28th. And they were
24 about partisan voter -- based on partisan voter data.
25 So to establish, is this going to be a lean district,

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1 will it be a competitive district or what? I mean,
2 really, at that stage there's only two, lean or
3 competitive for that final negotiation.

4 Q. Okay. Sorry. I'm pulling up another exhibit.

5 So this is a text message produced by April Sims.
6 And she says it was texted to Sarah Augustine. Do you
7 remember this text message conversation?

8 MR. MILLSTEIN: Deylin, can you share this
9 exhibit?

10 MR. THRIFT-VIVEROS: Yeah, sorry. I'm working
11 on it.

12 MR. MILLSTEIN: Can we pause on the questions
13 until we have it?

14 MR. THRIFT-VIVEROS: Oh, yeah.

15 MR. MILLSTEIN: And then are you going to
16 introduce this as well?

17 MR. THRIFT-VIVEROS: Yes.

18 (Exhibit No. 4 marked
19 for identification.)

20 MR. THRIFT-VIVEROS: Sorry. I can't figure
21 out how to share screen and open the chat at the same
22 time. There.

23 Yeah, I'd like to have this introduced as the next
24 exhibit.

25 BY MR. THRIFT-VIVEROS:

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1 Q. So in the text message exchange, you texted, "How's it
2 going?"

3 And April Sims texted, "We are at a stale mate."

4 Do you recall this conversation?

5 A. Yes.

6 Q. Did you attempt to mediate between the two of them
7 after this text message conversation?

8 A. This is at 8:09 p.m.?

9 Q. Uh-huh.

10 A. I think by this time I'm in the open public meeting.
11 So I'm really just checking in with them to see if
12 there's progress. I don't remember mediating at this
13 point. What I remember is, once the public meeting
14 started, I was trying to just give updates and then put
15 pressure on the commissioners and their staff to use
16 the maps.

17 Q. Okay. I'm going to go back to this memo. On the
18 second bullet point on Page 4, Ali O'Neil writes: At
19 around 8:45 I heard Commissioners Walkinshaw and Sims
20 agreed to a deal that was based almost solely on
21 partisanship numbers in a few legislative districts.

22 Do you remember -- were you privy to that deal?

23 MR. MILLSTEIN: Objection to form.

24 THE WITNESS: No. My goal at this time was
25 simply to determine whether they were going to carry on

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1 or call it. And what I mean by "call it" is just
2 announce to the public they could not come to
3 agreement.

4 So my understanding of what was going on at that
5 time was the republican team was meeting, democratic
6 team was meeting. And they were determining, you know,
7 what they were prepared to do.

8 BY MR. THRIFT-VIVEROS:

9 Q. I'm going to share one more text message exchange with
10 April Sims.

11 MR. MILLSTEIN: And could you put that in the
12 chat first?

13 MR. THRIFT-VIVEROS: Yeah, I just did.

14 (Exhibit No. 5 marked
15 for identification.)

16 BY MR. THRIFT-VIVEROS:

17 Q. So at 11:38 p.m., Commissioner Sims text you, "Are you
18 asking us to vote during this meeting?"

19 And you said, "Yes."

20 And she said, "I wasn't aware of that, I haven't
21 talked to Brady about the cd maps."

22 Do you recall this text message exchange?

23 A. I do.

24 Q. Okay. What prompted Commissioner Sims to ask you, "Are
25 you asking us to vote during this meeting?"

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1 A. I cannot imagine what prompted her to ask that. We had
2 laid out very clearly what the process would be that
3 evening, and we had -- we had -- "we" being the
4 independent staff, mainly me as the facilitator but
5 also Lisa McLean, and nauseam what the steps would be
6 and that the final maps would need to be voted on to
7 become the law.

8 So when she asked this message, I was shocked. I
9 was floored. And I guess I don't have any more to say
10 about it. I don't understand what motivated that
11 question in the least.

12 Q. So you believe that you had fully informed the
13 commission that they were going to vote during this
14 meeting; is that correct?

15 MR. MILLSTEIN: Objection to form.

16 THE WITNESS: Yes. I had reiterated and
17 repeated the law, which was open to everyone to see and
18 review from the very first day.

19 MR. THRIFT-VIVEROS: Okay. I'd like to have
20 this marked as the next exhibit.

21 BY MR. THRIFT-VIVEROS:

22 Q. Do you recall when you called for the final vote on the
23 maps?

24 A. It was, if I recall, slightly before midnight.

25 Q. Were all the commissioners in the same room or was it

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1 on Zoom, the vote?

2 A. It was on Zoom, to the best of my recollection. I was
3 sitting in the hallway of the hotel with my laptop. So
4 I honestly don't know where the rest of the
5 commissioners were. I was in the hall.

6 Q. Do you know if -- strike that. Sorry.

7 Do you recall what you told the commissioners you
8 were going to be voting on -- or they were going to be
9 voting on?

10 MR. MILLSTEIN: Objection to form.

11 THE WITNESS: I don't understand the question.

12 BY MR. THRIFT-VIVEROS:

13 Q. When you -- did you -- did you tell the commissioners,
14 Now we are going to vote?

15 MR. MILLSTEIN: Objection to form.

16 THE WITNESS: The agenda for the meeting was a
17 public document a full month before. And in that
18 agenda, there was a call for a vote. So at some point,
19 I believe, in the public meeting, I said -- I called
20 for a vote, yes.

21 BY MR. THRIFT-VIVEROS:

22 Q. And why did you call for a vote at specifically the
23 time you called for the vote?

24 A. Because the commissioners indicated to me that they had
25 finished their negotiations and they were ready to

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1 vote.

2 Q. Did the commissioners present maps to vote on?

3 A. They did not.

4 Q. Was it your understanding that -- or strike that.

5 When you called the final vote, what was your
6 understanding -- what did you understand would be voted
7 on?

8 MR. MILLSTEIN: Objection to form.

9 THE WITNESS: I understood that maps were
10 being drawn all the way along the negotiation process.
11 Certainly staff were communicating with each other and
12 mapping side by side. While I was not privy to it, I
13 assumed that was going on for the months leading up to
14 this final weekend. But in my view, for at least two
15 days, the staff were mapping side by side.

16 So I assumed that there was an impasse about the
17 final two districts in the congressional district map.
18 I understood that the -- I'm sorry, that the
19 congressional district maps -- excuse me.

20 I understood that the congressional district maps
21 were completed and that the legislative district maps
22 were nearly completed, with the exception of the final
23 two districts. So what I imagined was that the maps
24 were nearly complete and only had to have adjustments
25 made in the two, the two districts that were being

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1 negotiated.

2 Understanding that that's still a complex thing,
3 because whatever you decide there is going to impact
4 the populations in all of the surrounding areas and it
5 has a cascading effect. So I knew that there would
6 have to be some adjustment, but I assumed that these
7 maps were primarily mapped.

8 So as they were voting, I assumed they were voting
9 on maps that had been described, that they had been
10 viewed, that when the republican team and democratic
11 team were meeting, that they were discussing this.
12 Their staff were briefing them, they were sharing it
13 with each other and that they were ready to vote on
14 completed maps. That's what I understood we were
15 voting on.

16 I also understood that we did not have physical
17 maps that we were sharing with the public. I
18 understood that. But I believe they were nearing
19 completion and that they would be -- that we would post
20 them on the website within an hour or two of the final
21 vote.

22 BY MR. THRIFT-VIVEROS:

23 Q. Did anyone tell you that the maps were completed before
24 the final vote?

25 A. No.

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1 Q. And when did the maps end up getting posted for the
2 public?

3 A. I think the congressional map was posted at 6:00 a.m.
4 And I think the legislative map was posted at 4:00 p.m.
5 on the 16th of November. Sometime around 6:00 p.m.
6 6:00, 6:15, something like that.

7 Q. So were you surprised that the maps were not in a state
8 to be posted within an hour?

9 A. Yes.

10 Q. Did you convey that feeling to anyone else?

11 A. Yes. I conveyed frustration throughout the evening
12 that they were not sending my staff, the independent
13 staff, maps. Because I believed that they were close,
14 and I believed they were ready to send those.

15 And I will also make it clear, I believed that we
16 lost jurisdiction at midnight. I understood that. I
17 was aware of it, as were all the commissioners. The
18 commissioners were all aware that we lost jurisdiction
19 at midnight.

20 Q. So just to understand a little bit about the process
21 that you had already scheduled in advance, was the
22 procedure to be once the maps were agreed on and drawn,
23 it would be sent to the independent staff so the
24 independent staff can post online? Is that how the
25 process went?

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1 MR. MILLSTEIN: Objection to form.

2 THE WITNESS: The process was that the
3 independent staff would be mapping together, and they
4 would send that to the independent staff who would post
5 it.

6 BY MR. THRIFT-VIVEROS:

7 Q. Sorry. The nonindependent staff would be mapping
8 together and then send it to the independent staff to
9 post, okay?

10 A. Yes.

11 So Justin sent that e-mail, that invitation, at
12 7:00 p.m. believing that the congressional staff would
13 then together review the maps that they had mutually
14 drawn and make any adjustments they needed to make
15 before they sent it to Justin. And that is, in fact,
16 the process that happened, but it happened many hours
17 later.

18 Q. So further down in this memo on Page 7, Bullet Point 2,
19 Ali O'Neil writes, "The Commissioners agreed to send
20 the congressional map file to commission staff."

21 Do you recall that meeting?

22 MR. MILLSTEIN: Objection to form.

23 THE WITNESS: I had very little to do with
24 what happened in the congressional map.

25 BY MR. THRIFT-VIVEROS:

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1 Q. Okay. Further down on Page 7, Bullet Point, 1, 2, 3,
2 4, 5, 6, 7, Ali O'Neil writes, "I then heard the
3 Commissioners discuss how they would portray what they
4 had done. They discussed saying that they did not make
5 the deadline and did not adopt final maps, but that
6 they drew maps later that fit the agreement they voted
7 on."

8 Were you part of that conversation?

9 A. Yes.

10 Q. Can you elaborate a little bit more about that
11 conversation of how to portray the events of the night
12 of November 15th?

13 A. Yes. So at this point, the public meeting had ended.
14 And I conveyed -- this is the first time that we had
15 ever all been in a room together. And I conveyed to
16 the commissioners what they knew, which is that we had
17 lost our jurisdiction.

18 So at that point, we were discussing how we would
19 proceed in communicating, given that we acknowledged
20 that we had lost our jurisdiction. So we were
21 discussing how -- what we would convey and how and to
22 whom, acknowledging that there weren't maps presented
23 in the open public meeting. And the next step was to
24 cede our jurisdiction to the Supreme Court.

25 Q. So further down on the last page, Page 8, Bullet Point

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1 1, 2, 3 -- Bullet Point 6: At approximately 8:50 p.m.
2 on Tuesday, November 16th, I saw an e-mail from Lisa
3 McLean transmitting the legislative map and
4 congressional map files to the Washington Supreme
5 Court.

6 Did you -- do you know who made the decision to
7 send the map files to the Washington Supreme Court?

8 A. Yes.

9 Q. Was that you or someone else?

10 A. That was me.

11 Q. Okay. Did you review the maps before sending them to
12 the Washington Supreme Court?

13 A. No.

14 Q. Did you draft the letter to the Washington Supreme
15 Court that was conveyed with the maps?

16 A. Yes.

17 Q. Okay. Did you consult with any of the commissioners
18 prior to sending the files to the Washington Supreme
19 Court?

20 A. What I remember was that we discussed the transmission
21 of the maps to the Supreme Court, basically the steps
22 of relinquishing our jurisdiction. And this was
23 between midnight and 4:00 in the morning, between the
24 14th and 15th. So midnight the 16th through 4:00 in
25 the morning.

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1 There was a discussion and then map -- and then
2 staff were mapping side by side. So there was this
3 sense of, Well, we didn't do it, but at least we can
4 convey to the Supreme Court we can give them the work
5 that we did. Because we did actually come to
6 consensus, and we can share with them the work that we
7 completed.

8 At about 4:30 in the morning, I left. And my
9 understanding was that staff and commissioners were
10 going to sleep and complete their tasks. I went to the
11 office in Olympia and worked with the independent staff
12 to generate -- you know, to get ready to generate the
13 memo and to receive the maps, that we assumed were
14 coming pretty quickly, so that we could post those to
15 the internet, we could post those to our website, and
16 then convey that full package to the Supreme Court with
17 our best wishes.

18 Q. Were you under the impression that all of the voting
19 commissioners had seen the final maps before they were
20 conveyed to you?

21 A. Can you -- can you restate that, please?

22 Q. I guess who -- who sent you or a member of the
23 independent staff the final legislative district map?

24 MR. MILLSTEIN: Objection to form.

25 THE WITNESS: The final legislative district

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1 map was reviewed by the legislative districts -- or by
2 the -- by the legislative map team staff, with Justin
3 Bennett just as we planned. It didn't happen at
4 7:00 p.m. on the 15th. It happened in the afternoon on
5 the 16th. But it was exactly the same.

6 Those staff who had created the map were in a
7 meeting with Justin, and I was in the building when
8 that happened. They were conveying the final map. And
9 that bipartisan staff team reviewing it to ensure that,
10 yes, this is indeed what we agreed to that we would do.

11 BY MR. THRIFT-VIVEROS:

12 Q. Do you know if Justin Bennett or any of the other
13 members of the legislative district team conveyed those
14 final maps to the other two commissioners before
15 sending them to you as the final maps?

16 MR. MILLSTEIN: Objection to form.

17 THE WITNESS: I don't recall.

18 BY MR. THRIFT-VIVEROS:

19 Q. Okay. And after you drafted the letter that would be
20 conveyed with the maps to the Supreme Court, did anyone
21 else review it before you sent it to the Supreme Court?

22 MR. MILLSTEIN: Objection to form.

23 THE WITNESS: So I composed that letter with
24 Lisa McLean. That was a joint effort. She certainly
25 reviewed it. And I remember receiving a text from Joe

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1 Fain asking to see it. And I remember sending that to
2 him as an attachment, because he requested it.

3 Please understand that all of the commissioners had
4 agreed what process we were going to follow. And Joe
5 happened to ask me, Hey, I could I see that letter?

6 And I said sure. I took a picture of it with my
7 phone and texted it to him.

8 BY MR. THRIFT-VIVEROS:

9 Q. Did he make any changes to the letter or request any
10 changes?

11 A. I -- I don't remember that.

12 Q. Okay. Did any commissioners after -- strike that.

13 After you posted the maps to the website and
14 conveyed them to the Supreme Court, did any
15 commissioners reach out to you expressing concern that
16 they hadn't seen these final maps before they were
17 conveyed?

18 MR. MILLSTEIN: Objection to form.

19 THE WITNESS: Yes.

20 BY MR. THRIFT-VIVEROS:

21 Q. Who reached out to you?

22 A. Brady Walkinshaw.

23 Q. And what did he say?

24 A. He left a voicemail, as I recall, saying that he was
25 disappointed because he had not seen the legislative

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1 map.

2 Q. Did he express any reason why he felt disappointed
3 other than, I hadn't seen it?

4 A. That's what I remember.

5 Q. Okay. Did you call him back?

6 A. I had a conversation with Brady on Thursday morning.
7 Wednesday -- Thursday morning, I think.

8 Q. And do you recall what happened in that conversation on
9 Thursday?

10 A. Yes. Brady apologized to me for being difficult
11 throughout the redistricting process and asked for my
12 forgiveness. He also told me that he affirmed the maps
13 and he was looking forward to our press unveil, which
14 we had later on Thursday.

15 Q. Sorry. Can you repeat that last thing you said? It
16 was breaking up a little bit.

17 A. He was looking forward to our press unveil, which we
18 had later on that Thursday.

19 Q. Okay. And when he apologized for being difficult
20 throughout the redistricting process, what does that
21 mean to you?

22 A. I hesitate to speculate.

23 Q. Well, do you believe that he was difficult to you
24 throughout the redistricting process?

25 A. I believe that every person, every voting commissioner,

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1 had interests that they were bringing to the table.

2 And Brady had interests he was bringing to the table.

3 And I believe he did the best that he could given the
4 interests that he held.

5 Q. Can you elaborate any further on that?

6 A. Any elaboration I would make would be speculation.

7 I -- my experience of Brady was that it was hard to get
8 ahold of him. He was nonresponsive typically when I
9 reached out to him. And when I offered resources and
10 opportunity, he declined those things, and at times,
11 let me know that he -- that he didn't value my position
12 or anything that I had to offer.

13 Q. When you mention that he had some interests that he
14 brought to the table, what do you mean by that?

15 MR. MILLSTEIN: Objection. Asked and
16 answered.

17 THE WITNESS: He was appointed to a public
18 office in a very important process and was accountable
19 to those people, perhaps, who appointed him as well as
20 his constituents. What his specific interests were, I
21 don't know, because he did not share them with me. But
22 I assume that everybody in the process was coming with
23 many interests.

24 BY MR. THRIFT-VIVEROS:

25 Q. Okay. The voicemail that Commissioner Walkinshaw left

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1 you, did he leave that voicemail on your personal phone
2 or on the commission issued phone?

3 A. Remember, I used the commission phone to the extent
4 possible. And in the early days of the commission,
5 none of us had commission phones. So sometimes when we
6 called each other before we had commission phones, the
7 number could be captured as that person's phone number.

8 And I didn't talk to Brady very often throughout
9 the process, less than any other commissioner. So it's
10 possible that when he captured those early calls, he --
11 you know, he called me on my personal phone. It could
12 be. I don't remember, honestly. I'm sure those
13 records are available. All of those records have been
14 provided, I think.

15 MR. THRIFT-VIVEROS: I have another exhibit.
16 And we are wrapping up, or at least I'm wrapping up my
17 questioning. Thank you for hanging in there.

18 (Exhibit No. 6 marked

19 for identification.)

20 BY MR. THRIFT-VIVEROS:

21 Q. So these are notes from your journal regarding the
22 redistricting. Do you recognize these notes?

23 A. I do.

24 MR. THRIFT-VIVEROS: Okay. I'd like to get
25 this marked as the next exhibit.

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1 BY MR. THRIFT-VIVEROS:

2 Q. So on Page 2 -- or, I guess, on the second scanned page
3 here, you wrote, "Sims, agreement on VRA, CVAP hisp R
4 performing."

5 Does CVAP hisp mean Hispanic?

6 A. Hisp certainly means Hispanic. I don't remember what
7 CVAP means.

8 Q. Okay. Generally CVAP would mean Citizen Voting Age
9 Population?

10 A. Right.

11 Q. Do you believe that's what it is?

12 A. Yes, that's right.

13 Q. Do you recall what this means, agreement on VRA?

14 A. So to me, that says that they had agreed that it was
15 VRA compliant.

16 Q. They agreed that the map was VRA compliant?

17 A. Or whatever their agreement was. I don't know that
18 there was the map at this time. But whatever their
19 agreement was, they had -- you know, there wasn't a
20 dispute over it, is what it looks like to me.

21 Q. And as far as you recall, when you were taking these
22 notes, did each of them express to you that they
23 believed that the agreement they had reached was VRA
24 compliant?

25 MR. MILLSTEIN: Objection to form.

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1 THE WITNESS: Can you ask that question again,
2 please?

3 BY MR. THRIFT-VIVEROS:

4 Q. I'll ask a slightly different question. Do you
5 remember where in the negotiations you wrote these
6 notes in the timeline?

7 A. Yes. So this would have been on Saturday -- so the
8 first page there was certainly from Saturday. So I'm
9 guessing these two pages are from Saturday. And
10 they're using treasurer data, I see. That was the data
11 they agreed on.

12 Q. Okay.

13 A. Yeah.

14 Q. And when you wrote down "Agreement on VRA," did
15 Commissioner Sims affirmatively tell you that she
16 believed that the agreement they had reached was
17 compliant with the Voting Rights Act?

18 MR. MILLSTEIN: Objection to form.

19 THE WITNESS: Honestly, I don't know. Now
20 that I'm looking at this, I'm wondering if really what
21 these notes mean is they had agreed on what VRA
22 compliance meant. That they had agreed that they had
23 some metric and were in agreement on what VRA meant and
24 looked like.

25 I wonder that because there's no district listed

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1 here. So they're not talking about a specific
2 district. So that's why it makes me think that it's
3 really more like a metric, that they had agreed on what
4 this meant.

5 BY MR. THRIFT-VIVEROS:

6 Q. Directly underneath "Agreement on VRA" where it says
7 "CVAP hisp R performing" --

8 A. Right.

9 Q. -- do you believe that would indicate a specific
10 district?

11 A. I mean, that's what it made me think at first, that
12 would be indicating a certain district. Because, well,
13 that just makes sense. But I don't think that pertains
14 to the 44th, which is the first district you see listed
15 there.

16 So that's what makes me think that they had
17 agreement on the VRA as the metric. Because I don't
18 think that was a conversation that was in play
19 regarding the 44th.

20 Q. Could your notes right here about agreement on VRA be
21 referring to the 15th Legislative District?

22 A. I'm sorry; what?

23 MR. MILLSTEIN: Object to form.

24 BY MR. THRIFT-VIVEROS:

25 Q. The notes that you took here where you wrote,

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1 "Agreement on VRA, CVAP hisp R performing," when you
2 wrote those notes, could you have been referring to
3 Legislative District 15?

4 MR. MILLSTEIN: Objection to form.

5 THE WITNESS: Honestly, I don't remember. And
6 the fact that there isn't a district listed is the
7 thing that makes me question that they were talking
8 about a specific district. And it makes me think,
9 Gosh, this really looks like they're talking about,
10 Hey, we already have agreement on this. We have
11 agreement on what VRA means.

12 BY MR. THRIFT-VIVEROS:

13 Q. Okay. Do you recall any further conversations about
14 the VRA after you wrote these notes down?

15 A. Yeah, thank you for paging down. I'm trying to
16 remember.

17 Oh, here's our lunch menu, okay.

18 Q. Oh, you should see my notes. They're all over the
19 place.

20 A. So you notice they're talking about the 44th, the 38th.
21 And a lot about the 44th, the 28th. And then you see
22 they're talking boundaries here in the Tulalip area,
23 and that these are kind of -- this where it's got
24 Columns G and S, they're kind of saying this is what
25 we're striving for.

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1 Oh, and maybe this is their maps, actually. Now
2 that I think about it.

3 So we're just trying to see the advantage by party
4 here. I mean, you see the main districts they're
5 talking about, 44th, 28th, 38th, 47th.

6 Q. So going back up to this -- where is that?

7 Do you know what this right here -- sorry, where it
8 says "15 Safe R," is that referring to the 15th
9 Legislative District?

10 A. I think so. So this looks like -- it looks like it
11 says here, there was an agreement in the 44th that was
12 contingent upon Hobbs being in the 44th.

13 And then what I remember is Paul was saying -- or
14 Sims was saying that this whole hub bub about the 44th
15 was just an excuse to back away from their previous
16 agreement.

17 And so then what data they're using, they're using
18 the data from the treasury race. And so it looks like
19 they're saying they want -- somebody wants the 23rd to
20 be a safe D, the 15th to be a safe R and 11 -- I'm
21 sorry, 23 safe -- I'm sorry, this is the number of
22 districts, 23 safe Dems, 15 safe R and 11 competitive.
23 So maybe this was their original agreement.

24 Q. Okay. Yeah, that makes sense.

25 And then on the left-hand side of the page, you

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1 wrote 15th here. I believe that would refer to the
2 15th District; is that right?

3 A. That's what I think too. That's what it looks like.
4 And there's no comment about that, and then the 5th is
5 a lean R.

6 So maybe somebody said the 15th, and I wrote it
7 down, but then I didn't have any follow-up of what they
8 were wanting to negotiate about that in that
9 negotiation.

10 Q. So it appears that at the time you were taking these
11 notes, you did discuss the 15th District; is that
12 correct?

13 A. Or somebody mentioned it and I was just writing down
14 everything I heard.

15 Q. Okay. So I'm going to close these notes.

16 So District 15 -- allegedly, District 15 is the
17 district with the highest Latino citizen voting age
18 population. Do you agree with that?

19 MR. MILLSTEIN: Objection to form.

20 THE WITNESS: I don't know.

21 BY MR. THRIFT-VIVEROS:

22 Q. Okay.

23 A. It's certainly -- I don't remember. It's one of the --
24 one of the districts in the state with the most Latinx
25 residents, but I don't remember that it is the most. I

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1 don't remember.

2 Q. Okay. Do you recall any negotiations around the
3 numbering of districts, particularly District 15?

4 MR. MILLSTEIN: Objection to form.

5 THE WITNESS: No.

6 BY MR. THRIFT-VIVEROS:

7 Q. Okay. I'm going to -- I have one last exhibit. Let me
8 put this in the chat.

9 (Exhibit No. 7 marked
10 for identification.)

11 BY MR. THRIFT-VIVEROS:

12 Q. So here are minutes from November 24th meeting. Do you
13 remember this meeting?

14 A. I don't off the top of my head. But once reviewing the
15 minutes, I'm sure it will come to mind.

16 Q. Okay. I'll scroll down so we can take a look.

17 This was a week or two -- or a little bit less than
18 two weeks after the maps were sent to the Supreme
19 Court.

20 So in Section 2, it says, "Chair SA opened
21 discussion about the redistricting report titled '2021
22 Report to the Legislature.'"

23 Do you know who prepared that report?

24 A. So this is the population and percentage deviation of
25 all the districts from the target number, a map of all

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1 the districts' demographic information about each
2 district and a report from the executive director. So
3 this would be the independent staff who created this
4 report. So this would be Lisa McLean and especially
5 Justin doing the mapping.

6 Q. Okay. On the first bullet point under heading 2, it
7 says, "BW asked to strike the paragraph regarding the
8 Voting Rights Act at the bottom of page six of the
9 draft stand-alone ED report/page 11 of the full
10 to-be-published report."

11 Do you recall a discussion around that paragraph?

12 MR. MILLSTEIN: Objection to form.

13 THE WITNESS: I do not.

14 BY MR. THRIFT-VIVEROS:

15 Q. Okay. And BW means Brady Walkinshaw; is that right?

16 A. Right.

17 Q. Do you recall what that paragraph regarding the Voting
18 Rights Act said?

19 A. I don't.

20 Q. Do you have a draft of this report prior to that
21 paragraph being stricken?

22 MR. MILLSTEIN: Objection to form.

23 THE WITNESS: Probably not, but it probably
24 exists.

25 BY MR. THRIFT-VIVEROS:

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1 Q. Do you know if anyone else would have a draft of this
2 report with that paragraph regarding the Voting Rights
3 Act?

4 MR. MILLSTEIN: Objection to form.

5 THE WITNESS: I think you're asking if anyone
6 else has a copy of that report. And what I believe is
7 that it would be in our archived e-mail. Certainly it
8 would be in my archived e-mail. I no longer have
9 access to that, but all of that e-mail has been
10 archived. And the draft minutes would have been sent
11 to me for review. And it probably exists on a server
12 somewhere.

13 MR. THRIFT-VIVEROS: Okay. I don't have --
14 well, can we take a five-minute break? Is that okay?

15 THE WITNESS: Sure.

16 (Recess 2:52-2:59.)

17

18 E X A M I N A T I O N (Continuing)

19 BY MR. THRIFT-VIVEROS:

20 Q. I just have one or two more questions around the notes,
21 just for my own clarification. So you're not entirely
22 sure when you wrote "Agreement on VRA," what that
23 means; is that correct?

24 MR. MILLSTEIN: Objection to form.

25 THE WITNESS: Yes.

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1 BY MR. THRIFT-VIVEROS:

2 Q. Okay. And then underneath that, you wrote, "CVAP hisp
3 R performing"; is that correct?

4 A. Yes.

5 Q. Do you believe when you wrote these notes you were
6 referring to a specific district?

7 A. I don't remember.

8 Q. Were there -- from what you remember at this stage in
9 the negotiations, were there any majority CVAP Hispanic
10 districts in the map?

11 MR. MILLSTEIN: Objection to form.

12 THE WITNESS: I don't know.

13 BY MR. THRIFT-VIVEROS:

14 Q. Do you know if there were any other -- any -- sorry.
15 Strike that.

16 The line below, you wrote, "Paul/April Agreement in
17 44th."

18 I believe you mentioned earlier that the 44th was
19 one of the districts that was being negotiated until
20 nearly the very end; is that correct?

21 A. Yes.

22 Q. Do you know what that agreement that you wrote in your
23 notes was?

24 MR. MILLSTEIN: Objection to form.

25 THE WITNESS: It appears to me that what my

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1 notes indicate here is that the agreement in the 44th
2 was predicated upon Hobbs remaining in the 44th.

3 BY MR. THRIFT-VIVEROS:

4 Q. Okay. Because Hobbs was appointed and -- as secretary
5 of state, you testified earlier that that caused an
6 agreement -- a disagreement between the two; is that
7 correct?

8 MR. MILLSTEIN: Objection to form.

9 THE WITNESS: It threatened the agreement they
10 had to that point.

11 BY MR. THRIFT-VIVEROS:

12 Q. Specifically for that district; is that correct?

13 A. No, for every district.

14 Q. Okay. Do you know what each commissioner was seeking
15 for the 44th District?

16 A. No.

17 Q. And then finally, do you know if either commissioner
18 was seeking a CVAP Hispanic majority district?

19 MR. MILLSTEIN: Objection to form.

20 THE WITNESS: I don't know.

21 MR. THRIFT-VIVEROS: Okay. I don't have any
22 more questions. Thank you for your time and for
23 bearing with me.

24 And I think I hit the two-hour mark that I
25 expected, so we have time for other questions.

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1 THE WITNESS: Thank you. It was a pleasure to
2 get to talk with you.

3 MR. THRIFT-VIVEROS: Thank you. Likewise.

4 MR. HUGHES: Good afternoon, Sarah.

5 Deylin, could you stop sharing your screen?

6 MR. THRIFT-VIVEROS: Yeah, sorry.

7 MR. HUGHES: Of course.

8
9 E X A M I N A T I O N

10 BY MR. HUGHES:

11 Q. Sarah, I'm Andrew Hughes. I'm an assistant attorney
12 general with the State of Washington. I represent the
13 state in this case. Just a few hopefully quick
14 questions.

15 First, were you involved in the decision-making
16 process for the maps that were ultimately adopted?

17 A. No.

18 Q. You were asked some questions previously by
19 Mr. Thrift-Viveros about the commissioners' priorities.
20 Do you remember that?

21 A. Yes.

22 Q. Was it your impression that any commissioner did not
23 prioritize compliance with the Voting Rights Act or did
24 not otherwise think complying with the VRA was an
25 important consideration?

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1 MR. MILLSTEIN: Object to form.

2 THE WITNESS: No.

3 BY MR. HUGHES:

4 Q. So in other words, is it fair to say that your
5 impression was that all the commissioners wanted to
6 comply with all applicable laws, including the VRA?

7 A. Yes.

8 Q. Okay. Was keeping the Yakama Nation together an
9 important consideration in drafting maps in the Yakima
10 Valley?

11 A. I cannot say what the priorities were of the
12 commissioners as they were negotiating the 14th and the
13 15th Districts. What I can say is that we engaged --
14 the commission engaged in tribal consultation with
15 eight American Indian tribes in the state of
16 Washington, and that tribal consultation was taken very
17 seriously because it was a nation-to-nation
18 consultation in compliance with the law.

19 And because of the law in Washington State, tribal
20 governments have the right and the consideration to be
21 consulted whenever decisions are being made that
22 directly relate to their lands. And so that tribal
23 consultation was taken very seriously.

24 Q. And you attended a tribal consultation with the Yakama
25 Nation, correct?

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1 A. I did.

2 Q. And did the Yakama Nation, do you recall, express the
3 belief that they wanted the Yakama Nation to be
4 preserved in one -- strike that.

5 Did the Yakama Nation express the belief that they
6 wanted their nation to be joined in one legislative
7 district?

8 A. Yes.

9 Q. Previously it had been split, correct?

10 A. Yes.

11 Q. And the Yakama Nation goes beyond the borders of the
12 Yakama Reservation, correct?

13 A. That's correct.

14 Q. What does it include beyond the borders of the
15 reservation?

16 A. I don't have my notes directly in front of me, but they
17 have some territory along the Columbia River and asked
18 expressly for that territory to be included.

19 Q. Would that territory be referred to as -- let me start
20 over again.

21 Would that territory be referred to as ceded land?

22 A. I apologize. I don't remember the details of the
23 specific communities they were talking about along the
24 Columbia, but they didn't designate those lands. It is
25 possible, in consultation, they referred to ceded

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1 territories, because there are many members of the
2 Yakama Nation that live in ceded territories.

3 However, what I remember they expressly wanted was
4 lands that are considered to be collectively owned
5 territory along the Columbia that are not contiguous
6 with the reservation.

7 Q. Understood. And that's part of the Yakama Nation?

8 A. Yes.

9 Q. And just so we're all situated, that's along the
10 Columbia River in Klickitat County, correct?

11 A. That's right.

12 Q. As you can see, I'm trying to draw a map with my hands
13 in mid air.

14 Does the LD14 that the commission created and
15 approved keep the Yakama Nation together in a single
16 district?

17 A. Yes.

18 Q. And that includes the territory along the Columbia
19 River?

20 A. That's correct.

21 Q. Okay. I'm going to share my screen with you. And I'm
22 going to show you a document that I'm going to find any
23 minute now.

24 Right here. Can you see my screen?

25 A. Yes.

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1 Q. Are you looking at what looks like a court pleading in
2 this case?

3 A. Yes.

4 Q. Perfect.

5 And as you can see here, this is Document 54-1 in
6 the case of Soto Palmer versus Hobbs, et al.?

7 A. Yes.

8 Q. And can you tell me the title of this document?

9 A. Exhibit 1: Plaintiffs' Proposed Plan.

10 Q. And I'm going to scroll down and show you the document.

11 There's a bigger version, and here is a part that is
12 zoomed in on Plaintiffs' District 14.

13 Do you see that?

14 A. Yes.

15 Q. Does this District 14 appear to keep together the
16 Yakama Nation in a single district?

17 A. No.

18 Q. Why not?

19 A. I don't see the cities on this map, but I believe it
20 takes Toppenish and Wapato out of -- out of those two
21 towns that are on the Yakama Reservation and places
22 them separate from the reservation.

23 Q. Does this map -- let me show you the larger version.

24 A. Okay.

25 Q. I'll zoom in a bit.

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1 Does this Plaintiffs' Proposed Plan extend down to
2 the Columbia River?

3 A. No.

4 Q. So it does not include those fishing villages you
5 mentioned earlier along the Columbia River that are
6 part of the Yakama Nation?

7 A. That's right.

8 Q. Okay. I'm going to show you another document. Do you
9 see what -- it should say "Expert Report of Dr. Loren
10 Collingwood."

11 Do you see that?

12 A. Yes.

13 Q. And this is dated, in European fashion, August 3rd,
14 2022. Do you see that?

15 A. Yes.

16 Q. And I'm going to scroll down to Page 22 of this. And
17 you see here is a Figure 8. Can you read me the title
18 of Figure 8?

19 A. "Washington House Legislative District 14, Plaintiffs'
20 Demonstrative 1."

21 Q. And if you look in the -- what I'll call -- well, if
22 you look at the southwest corner of this image, does
23 this appear to include the entirety of the Yakama
24 Nation in one district?

25 I know it's hard without very much geographic

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1 identification, no cities or anything.

2 A. I'm sorry; I can't tell.

3 Q. Fair.

4 Okay. Let me move on to the next one.

5 MR. THRIFT-VIVEROS: Sorry to interrupt. Can
6 you share this in the chat, please?

7 MR. HUGHES: I suppose I could. I'm not
8 intending to list this as an exhibit, but I can share
9 it for your benefit.

10 MR. THRIFT-VIVEROS: Thank you.

11 MR. HUGHES: This is already in the record, so
12 give me just a moment.

13 I've navigated away from it for a moment. Can we
14 briefly go off the record?

15 (Discussion off the record.)

16 BY MR. HUGHES:

17 Q. All right. I'm going to reshare my screen.

18 Sarah, are you looking what should say Figure 9
19 right now?

20 A. Not yet.

21 Oh, there, yes.

22 Q. And can you read me the title of Figure 9?

23 A. "Washington House Legislative District 14, Plaintiffs'
24 Demonstrative 2.

25 Q. And does this district extend down to the Columbia

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1 River?

2 A. No.

3 Q. Does this district contain the entire Yakama Nation
4 together, as the nation requested?

5 A. No.

6 Q. Okay. Moving down to Figure 10, can you read me the
7 title of this figure?

8 A. "Washington House Legislative District 14, Plaintiffs'
9 Demonstrative 3."

10 Q. And does this district contain the entire Yakama Nation
11 in it?

12 A. No.

13 Q. Okay. I'm going to do something I shouldn't and try
14 again with No. 1.

15 Okay. Back to Figure 8, Washington House
16 Legislative District 14, Plaintiffs' Demonstrative 1.
17 Having seen the last two demonstratives, do you know
18 whether this -- can you tell whether this district
19 includes the entire Yakama Nation?

20 A. It does not.

21 Q. Okay. I'm going to show you now what is -- well, do
22 you recognize this document?

23 A. Yes.

24 Q. Correct me if I'm wrong, this is the revised
25 legislative district map from Commissioner April Sims

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1 from October 25th, 2021; is that right?

2 A. I can't recall it on site, but I take your word for it.

3 Q. Okay. Well, do you see that title right here at the
4 bottom?

5 A. Oh, I don't, but let's see.

6 Q. Let me try again.

7 A. That's okay.

8 Q. Now do you see it?

9 A. No. Now it's just a blank map.

10 Yes, now I see it. Yes.

11 Q. Okay. So just to be sure the record is clear, it

12 appears that this is Commissioner April Sims' revised

13 legislative district map from October 25th, 2021; is

14 that correct?

15 A. Yes.

16 Q. Okay. Looking at exhibit -- sorry, looking at District

17 14, does it extend down to the Columbia River?

18 A. No.

19 Q. Does it contain the entire Yakama Nation, a single

20 district?

21 A. No.

22 Q. And finally, do you recognize -- let me zoom in. Do
23 you recognize this document?

24 A. Yes.

25 Q. What is this document?

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1 A. Oh, so this is Commissioner Brady Walkinshaw, revised
2 legislative district, also October 25th, 2021.

3 Q. And does this district contain the entire -- sorry.

4 Does this version of Legislative District 14 contain
5 the entire Yakama Nation in a single district?

6 A. No.

7 Q. Why not?

8 A. It does not extend down to the Columbia either.

9 Q. Sarah, do you think it's possible to create a
10 district -- strike that.

11 MR. HUGHES: No further questions. Thank you.

12 MR. BOWEN: Can we go off the record really
13 quick?

14 (Discussion off the record.)

15

16 E X A M I N A T I O N

17 BY MR. BOWEN:

18 Q. Sarah, I appreciate you bearing with us here on this
19 long day.

20 You mentioned earlier that you reviewed the
21 complaint when it was initially filed in this case,
22 correct?

23 A. I did.

24 Q. Okay. Were you surprised to see that a lawsuit had
25 been filed on the legislative district map?

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1 A. No.

2 Q. Why not?

3 A. Because the maps had been contested in a variety --
4 within a variety of different tools.

5 Q. What were some of those tools?

6 A. The OPMA lawsuit was based on the assumption that a
7 secret meeting had been held out of the public eye and
8 relief would be -- the relief that was requested was to
9 expunge the maps or to get rid of the maps.

10 And from my point of view, the basis of that
11 lawsuit was kind of silly. Because if there had been
12 attempt to hold meetings in private, it would have been
13 seamless and no one would have been the wiser. There
14 was chaos because we were doing all of that work in
15 public and in the public eye.

16 And we had a huge audience because we had engaged
17 so many members of the public. More than a million
18 communications. And so the idea that we were somehow
19 doing some kind of behind closed doors, secret
20 negotiating was a little bit silly, because if we
21 had -- if that had been my intention as chair, or even
22 the commissioners, we would have done the whole thing
23 in quite a different way.

24 We would have had much fewer public meetings. We
25 would have had fewer opportunities to engage. We would

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1 not have had simultaneous translation and multiple
2 languages in every single meeting. We would not have
3 gone to the lengths to engage as many people as we did.

4 And, therefore, there were a lot of eyes on us.
5 And when the OPMA lawsuit was called, from my point of
6 view, whether I think it's silly or not, that's the
7 process. People have a chance to be heard. And so
8 that -- that lawsuit was -- was brought. The idea that
9 relief would be to do away with the maps seemed a
10 little like a pretty severe form of relief.

11 Q. So to your knowledge, there was no such secret meeting,
12 as you said?

13 A. No. No. There was no secret meeting.

14 And I recognize that that lawsuit was settled. But
15 from my point of view, everything that the commission
16 had done was done in the big, grand wide open, warts
17 and all. And, you know, otherwise there wouldn't have
18 been embarrassing things that happened if we hadn't
19 tried to do it all in the open.

20 So it was clear that there were attempts to prevent
21 a negotiated political compromise from being the last
22 result.

23 Q. On that note, you've talked a lot about Commissioner
24 Sims and Graves and negotiations happening in the last
25 three days leading up to finalizing the map today; is

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1 that correct?

2 A. Yes.

3 Q. Is it fair to say that in that time, those final three
4 days, they took the partisan nature of the elections
5 into account more than, say, race or ethnicity?

6 MR. MILLSTEIN: Objection to form.

7 THE WITNESS: In the districts that I was --
8 where I was privy to the negotiation in those last
9 three days, partisan voting records were the primary
10 metrics they were looking at and negotiating about.

11 BY MR. BOWEN:

12 Q. Okay. To your knowledge of the commission as a whole,
13 would you say that considerations of partisan voting
14 predominated more so than considerations of race or
15 ethnicity in drawing the lines?

16 MR. MILLSTEIN: Objection to form.

17 MR. HUGHES: Lack of foundation.

18 THE WITNESS: I don't know. I was only privy
19 to the negotiation of the last -- in the last three
20 days.

21 And the commissioners were very clear in the
22 statement of their priorities in open public meetings,
23 expressing those to the public and then also publishing
24 those. So -- and I want to be clear about that. They
25 expressed what those were. They created maps based on

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1 that. And then there was quite a lot of public
2 interaction with them in response to that.

3 So those -- those priorities were pretty well
4 chewed over. And that is to say, the commissioners
5 received a lot of comment, not all of it positive, in
6 response to that. And so it was pretty well -- you
7 know, it was pretty well established, because they had
8 to defend those things. Two of them revised their
9 priorities based on public input.

10 And I trusted the integrity of what they said, and
11 I believe their behavior bore that out. They stated
12 what their priorities were. And so far as I saw, I
13 didn't see any divergence from those priorities that
14 they stated.

15 BY MR. BOWEN:

16 Q. Okay. Let's shift gears a little bit more to the data
17 that was being used by the commission. You mentioned
18 earlier that the census data came in later than
19 expected; is that right?

20 A. Yes.

21 Q. But the commission did use census data in generating
22 the maps, correct?

23 A. That's right.

24 Q. Okay. Are you aware of how the U.S. Census Bureau
25 defines Hispanic?

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1 A. Not today. I probably would have known that a year
2 ago, but today I don't -- I don't remember.

3 Q. I guess to the best of your recollection, do you recall
4 if the Bureau defined Hispanic as a race or ethnicity?

5 A. Ethnicity, to the best of my recollection.

6 Q. Okay. So a voter could be, say, white Hispanic?

7 A. Yes.

8 Q. A voter could also be Native American Hispanic?

9 A. That's right.

10 Q. Or sorry to be redundant here, but also black Hispanic?

11 A. Yes.

12 Q. Or Asian Hispanic?

13 A. Yes.

14 Q. To the best of your knowledge, do Hispanics tend to
15 vote more for democrats or republicans in the state of
16 Washington?

17 A. I don't know.

18 Q. Okay. Would you -- strike that.

19 To the best of your knowledge, do Hispanics tend to
20 vote more for republicans or democrats in Yakima Valley
21 specifically?

22 A. I remember looking at the data. And I remember
23 Hispanics in the Yakima Valley voting more often for
24 democrats. And I'm also aware that there are
25 republican Hispanic politicians in the Yakima Valley

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1 that are successful. So, yeah, I guess that's -- I'll
2 leave it there.

3 Q. I'm going to change gears again here, switching over to
4 a little bit more of the legal requirements. You said
5 earlier that you had familiarized yourself with some of
6 the law and you were trying -- strike that.

7 Earlier you mentioned familiarizing yourself with
8 the law so that you could do your best to make sure the
9 commission complied with the law; is that correct?

10 A. Yes.

11 Q. Okay. And that included things like the Voting Rights
12 Act, the 14th Amendment and Washington State law,
13 correct?

14 A. Yes.

15 Q. To your knowledge, does the Washington Constitution
16 require any sort of partisan competitiveness when
17 drawing districts?

18 MR. MILLSTEIN: Objection. Calls for a legal
19 conclusion.

20 THE WITNESS: The statute that establishes the
21 process of redistricting does mention competitiveness,
22 to the best of my recollection.

23 BY MR. BOWEN:

24 Q. When you were reminding -- strike that.

25 You said earlier that during the redistricting

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1 process, you would remind the commissioners of their
2 duty to follow the law, correct?

3 A. Yes.

4 Q. To your recollection, do you ever remember specifically
5 reminding them of their duty to follow the provision we
6 discussed earlier about partisanship?

7 A. So in all of the open public meetings, and they were
8 numerous, we reiterated the specifics of that statute
9 again and again and again. At every single one.
10 That's what I remember. And there was a summary. And
11 the commissioners were present for that. It was
12 important to me and as the facilitator for the
13 meetings, I had the opportunity to remind everyone what
14 we were doing and why.

15 Q. As someone who said the law was important to you and
16 that was reminding the commission to follow it, what
17 did that provision mean to you?

18 MR. MILLSTEIN: Object to form.

19 THE WITNESS: I can speak to what it means to
20 me, and I can't speak for what it means to the voting
21 commissioners or -- yeah, I could just speak for
22 myself.

23 That provision, to me, meant that maps should not
24 be drawn exclusively by one party or another with their
25 own interest being prioritized above everything else.

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1 But that in order to represent all the residents of
2 Washington, that there would have to be a compromise so
3 that the -- no one party would be empowered to be the
4 decision-maker for everyone.

5 BY MR. BOWEN:

6 Q. Okay. Thank you.

7 I'm going to change gears again here and talk a
8 little bit about your working relationship with
9 Commissioner Walkinshaw. You mentioned earlier that he
10 had apologized for you, I think how you phrased it, for
11 being difficult throughout the process and asked for
12 your forgiveness; is that right?

13 A. Yes.

14 Q. Did you feel that apology was warranted?

15 A. Yes.

16 Q. Why is that?

17 A. Commissioner Walkinshaw was, from my point of view, not
18 always collaborative in terms of working through the
19 process. Commissioner Walkinshaw came to the meetings
20 and voiced his opinion and he voted. Those were his
21 responsibilities.

22 He was not willing to participate in commission
23 activities outside of those scheduled or designated
24 meetings. And this is what I mean by that,
25 collaborating with me, with the independent staff. And

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1 I guess those are the things I could know and comment
2 about. And that was, at times, stressful.

3 It was also infusing to see comments in the press
4 that were not shared ahead of time. That's not an
5 obligation, but it is a good thing to do if you want to
6 collaborate with your team. And sometimes, in ways,
7 that seemed to try to impede the process.

8 Q. So is it your belief that Commissioner Walkinshaw made
9 the process of collaboration more difficult?

10 A. I -- I can't speak to the commission. I don't know
11 that. I can say that I appreciated it when the other
12 commissioners received my calls and would talk through
13 the business of the commission. That was really
14 helpful.

15 Q. Did any of the staff, either partisan or independent,
16 have difficulty working with Commissioner Walkinshaw?

17 MR. MILLSTEIN: Objection to form.

18 THE WITNESS: I don't remember that
19 specifically.

20 BY MR. BOWEN:

21 Q. Was he always -- strike that.

22 As far as you remember, was Commissioner Walkinshaw
23 always respectful towards you?

24 A. I don't recall Commissioner Walkinshaw ever being
25 verbally abusive, and I would not ever say that. And I

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1 think it's respectful, if you call someone, to call
2 them back. I think that's respectful. So in that way,
3 I would have appreciated that respect.

4 And as I said before, I can't -- I don't want to
5 guess at intent. And all of the commissioners were
6 under a great deal of pressure managing full-time jobs
7 and trying to do this work well. And, you know, on
8 balance, if you're trying to prioritize how you're
9 going to use your time, I can understand, you know, not
10 being able to get to everything.

11 Q. You mentioned earlier that Commissioner Walkinshaw, I
12 believe the phrase you said was, did not value your
13 position or what you had to offer; is that right?

14 A. Yes.

15 Q. What did you mean by that?

16 A. My ambition in the commission was to provide the best
17 possible information to the commissioners, to engage
18 the public to the highest degree possible, to
19 demonstrate the effectiveness of democratic
20 institutions through engagement and to negotiate in a
21 very difficult time period in a succinct and organized
22 way. And I did not experience any interest in those
23 things that I had to offer.

24 Q. Okay. Thank you for sharing.

25 I'm going to change gears one last time here, and

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1 I'm actually going to attempt to share with counsel
2 what I would like to mark as Intervenor-Defendants
3 Exhibit 1. Forgive me while I work through this.

4 (Intervenor-Defendants Exhibit No. 1
5 marked for identification.)

6 BY MR. BOWEN:

7 Q. I am going to attempt to screen share here. And as my
8 co-counsel said earlier, I'm not as adept as I should
9 be at this here. So I appreciate your forbearance
10 here.

11 Can you see the PDF document that is titled at the
12 top "Why I Resigned As Chair of the Redistricting
13 Commission"?

14 A. Yes.

15 Q. Okay. And this is a PDF version of the online article
16 from the Seattle Times. Can you verify that?

17 A. Yes.

18 Q. This looks like an article that you wrote then in March
19 of 2022; is that correct?

20 A. Yes.

21 Q. Okay. And I'm going to scroll down this and just read
22 through a couple of quotes together. I'll try to
23 highlight this. So the highlighted quote here, and
24 correct me if I'm wrong, you were speaking about the
25 affect of the State's refusing initially to defend the

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1 proposed map.

2 And you said, and I'm quoting, "Worse, it
3 undermines the values that drive the redistricting
4 process in Washington State: Independence from
5 political influence, collaboration and bipartisan
6 compromise."

7 Is that quote correct?

8 A. Yes.

9 Q. Do you believe that the commission engaged in that
10 bipartisan compromise?

11 A. I do.

12 Q. The maps that were drawn, in your opinion, then were a
13 result of partisan compromise; is that correct?

14 A. Yeah, it was a result of bipartisan compromise.

15 Q. And the maps then, in your opinion, that were drawn
16 were not a result of racial discrimination?

17 A. I want to be very careful not to interpret the maps,
18 because I didn't draw the maps, and I'm also not an
19 attorney with expertise on this matter. But I can say
20 that I believe with confidence that there was no intent
21 to create racial discrimination among the
22 commissioners, that all four of them acted with a high
23 degree of integrity in terms of remaining true to the
24 interests that they voiced in their priorities for
25 their position as commissioners.

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1 Q. I'm going to scroll down and read another section here
2 on what is the third of four pages. I'm going to
3 highlight the end of the second paragraph into the
4 third paragraph.

5 You wrote, "For a redistricting plan to become the
6 law, it must be affirmed by at least three voting
7 commissioners, requiring bipartisan agreement. This
8 intentionally bipartisan process is meant to ensure a
9 spirit of collaboration over bipartisanship, and
10 compromise over 'winner takes all.' It is Washington
11 State's attempt to avoid gerrymandering, which occurs
12 in states where the legislature draws the maps and the
13 party that holds the majority in the legislature can
14 draw boundaries to its political advantage."

15 Is that a correct quote?

16 A. Yes.

17 Q. Is it your opinion that the proposed map here avoided
18 partisan gerrymandering?

19 A. Yes.

20 Q. Is it your opinion here that the proposed map avoided
21 racial gerrymandering?

22 A. Yes.

23 Q. I'm going to scroll down further still. This will be
24 at the bottom of Page 3, top of Page 4, the highlighted
25 section.

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1 "It has been suggested that the argument over the
2 15th and 14th Districts is a justice issue for
3 vulnerable communities of color; a coalition of Latino
4 voters believes the current district boundaries will
5 not allow Latino voters the chance to elect candidates
6 of their choice. However, their suit directly demands
7 splitting the Yakama Reservation by bringing towns on
8 the Yakama Reservation into the 15th District, in
9 direct opposition to the interests of the Yakama Nation
10 reflected in the current plan. In
11 government-to-government consultation, the Yakama
12 Nation required that Yakima territories be contained in
13 one district. By refusing to defend the law, aren't
14 Washington leaders hanging out to dry communities of
15 color, like the Yakama Nation, whose interests are
16 expressed in the final map?"

17 Is that a correct quote?

18 A. Yes.

19 Q. Is it your opinion that the proposed map reflects the
20 interests of communities of color like the Yakama
21 Nation?

22 A. Yes.

23 Q. It sounds like then, reading this opinion you wrote,
24 that you view the dispute as one between different
25 communities of color, that is the Yakama Nation and the

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1 coalition of Latino voters challenging the map.

2 Is that a fair characterization?

3 MR. HUGHES: Object to form.

4 THE WITNESS: Can you repeat the question,
5 please?

6 BY MR. BOWEN:

7 Q. Yeah, let me rephrase.

8 You said in here that the map was challenged by a
9 coalition of Latino voters; is that correct?

10 A. Yes.

11 Q. And those Latino voters would be a community of color;
12 is that correct?

13 A. Yes.

14 Q. And you said that the map which has the Yakama Nation
15 as one district represents the interests of that
16 community of color; is that correct?

17 A. Yes.

18 Q. So is it fair to say then that there's a tension
19 between dividing that district or keeping it whole --
20 strike that.

21 Is it fair to say then that there may be competing
22 interests between two communities of color on how these
23 districts are drawn?

24 MR. HUGHES: Object to form.

25 MR. MILLSTEIN: Object to form.

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1 THE WITNESS: The intention of my op ed was to
2 challenge the leaders of our state to keep their
3 commitments, that is to defend maps that were affirmed
4 by the legislature according to Washington State law.

5 In my op ed, I was pointing out that by hanging it
6 on a racial justice issue, that was -- that is an
7 unfair characterization of a very complex process.
8 Trying to boil it down to a justice issue for one
9 community is an unfair characterization.

10 So I want to be clear, the Latino coalition
11 bringing suit has the right to do that under the law.
12 I don't dispute that or fault that coalition. That is
13 our process. If the outcome doesn't work for them,
14 they have the right to bring suit.

15 What I was writing about here was that regardless
16 of who challenges the law, it's the obligation of the
17 leaders to defend the law out of respect for all the
18 people who participated in the process. So I want to
19 be really clear that I would like to not characterize
20 this dispute, from my point of view, as simply a
21 tension between two communities of color, because I
22 think that's an unfair characterization.

23 I would characterize this as a powerful political
24 party working towards its best advantage and calling
25 that a racial tension. And that is why I wrote this op

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1 ed.

2 BY MR. BOWEN:

3 Q. Thank you for sharing.

4 Last question for me: Are you proud of the maps
5 that were passed as a result of the commission's work?

6 A. Yes, absolutely proud.

7 MR. BOWEN: Okay. Thank you and thank you for
8 your service. That's all the questions I have.

9 THE WITNESS: Thank you.

10 MR. THRIFT-VIVEROS: I have just a few
11 questions on redirect on topics that were raised since
12 my line of questioning.

13

14 FURTHER EXAMINATION

15 BY MR. THRIFT-VIVEROS:

16 Q. Sorry, just a few more.

17 A. That's okay.

18 Q. But, yeah, thank you so much for sticking with us.

19 Are you aware that the Yakama Nation includes a
20 tribal or tribal trust lands in Skamania County?

21 MR. MILLSTEIN: Objection to form.

22 THE WITNESS: I would have to look at a map,
23 and I would be happy to do that.

24 BY MR. THRIFT-VIVEROS:

25 Q. Okay. Do you know the location of the tribal and

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1 tribal trust lands of the Yakama Nation?

2 A. I am not an expert on that, and I would want to refer
3 to the map that was provided to me by the Yakama
4 Nation.

5 Q. Okay. I'm going to share screen on the enacted maps.

6 So this is the Washington State Redistricting
7 Commission website. And I'm going to open up the
8 Washington State legislative district map. And I'm
9 going to zoom in.

10 Do you recognize this as the final and acting map?

11 A. I do.

12 Q. Okay. And would you agree that District 14 includes
13 some of the land -- some Yakima County land; is that
14 correct?

15 A. Did you mean the Yakama Nation land?

16 Q. Yeah.

17 A. Or did you mean Yakima County?

18 Q. Yakima County land.

19 A. Yes.

20 Q. The land in Yakima County, okay.

21 A. Yeah.

22 Q. And would you agree that the District 14 of the enacted
23 plan does not include land in Skamania County?

24 A. Yes.

25 Q. Okay. Since some Yakama trust lands are in Skamania

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1 County, is it possible to draw a district with all of
2 the Yakama Nation and trust lands into one district?

3 MR. MILLSTEIN: Objection. Lacks foundation.

4 THE WITNESS: I don't know.

5 BY MR. THRIFT-VIVEROS:

6 Q. I am also going to look at the report that Mr. Hughes
7 presented. I'll scroll back up to the top.

8 It's the expert report of Dr. Loren Collingwood.

9 And within the report it contains demonstrative map
10 from plaintiffs of a proposed District 14.

11 I'm going to represent that I have in Dave's
12 Redistricting, the same exact map, same exact boundary
13 lines as the map contained in Dr. Loren Collingwood.
14 And we can flip back and forth to look at the shape.

15 The shape is about the same, would you agree?

16 MR. MILLSTEIN: Objection to form.

17 THE WITNESS: I'm sorry. I don't understand
18 your question.

19 BY MR. THRIFT-VIVEROS:

20 Q. So I'm just -- for purposes of being able to identify
21 cities, I have here and I'm demonstrating that this is
22 an exact, same replica of the map contained in Loren
23 Collingwood's report, demonstrative -- plaintiffs'
24 demonstrative map 2 that was shared to you by
25 Mr. Hughes.

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1 A. Okay.

2 Q. And do the shapes look substantially similar to you?

3 A. I haven't had a chance to study these reports, but they
4 appear to be similar.

5 Q. Just looking at the areas. Okay.

6 And I'm going to zoom in, and hopefully you can see
7 the city labels contained within District 14.

8 Do you see that Wapato is contained within
9 plaintiffs' demonstrative District 14?

10 A. Yes.

11 MR. MILLSTEIN: Form.

12 BY MR. THRIFT-VIVEROS:

13 Q. And do you see that Toppenish is located within
14 plaintiffs' demonstrative plan for District 14?

15 A. Yes.

16 Q. Okay. Did you understand the commission to have a
17 legal obligation to draw a district that contained all
18 of the Yakama Nation and trust lands into the same
19 district?

20 MR. MILLSTEIN: Objection. Calls for a legal
21 conclusion.

22 THE WITNESS: From my point of view, the
23 commission did not have a legal obligation to do more
24 than consult with the Native American tribe that called
25 for tribal consultation.

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1 BY MR. THRIFT-VIVEROS:

2 Q. Did any of the commissioners express a priority of
3 keeping all the Yakama Nation and trust lands together?

4 MR. HUGHES: Sorry. Object to form.

5 THE WITNESS: I was not part of the
6 negotiation process of the 14th or the 15th, so...

7 BY MR. THRIFT-VIVEROS:

8 Q. Okay.

9 A. Honestly, I can't speak to that. I can tell you that
10 at the tribal consultation, April Sims and Paul Graves
11 attended that consultation, and they made a commitment
12 to the Yakama Nation to take very seriously their
13 request. That's what I heard in the public meeting.

14 MR. THRIFT-VIVEROS: Okay. I don't have any
15 more questions. Thank you.

16 MR. HUGHES: I just have maybe one or two
17 quick follow-ups.

18
19 FURTHER EXAMINATION

20 BY MR. HUGHES:

21 Q. Sarah, I just want to be very clear on an exchange that
22 you had with Mr. Bowen towards the end. You don't
23 believe the interests of Native American Washingtonians
24 and Hispanic Washingtonians are opposed, do you?

25 MR. BOWEN: Objection. Form.

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1 THE WITNESS: That is a really big question to
2 ask me.

3 BY MR. HUGHES:

4 Q. I can ask a different question or slightly different
5 question if you'd like?

6 A. I can tell you that trying to characterize tension
7 between these two racial groups is interesting. That
8 is certainly the case. And, you know, these are large
9 complex diverse communities within Washington State who
10 don't -- they're not monolithic with one set of
11 interests.

12 So, you know -- you know, I feel that it's
13 difficult to characterize whether or not they have --
14 I'm sure there are many interests that are in tension,
15 and I would not say, in general, that their interests
16 are in opposition to each other.

17 MR. HUGHES: Thank you. That's all I got.

18 MR. BOWEN: Nothing further.

19 MR. MILLSTEIN: I'm not going to be asking any
20 questions. So it sounds like we are done; is that
21 correct?

22 We can go off the record.

23 (Signature reserved.)

24 (Deposition concluded at 4:00 p.m.)

25

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REPORTER'S CERTIFICATE

I, CONNIE A. RECOB, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify that the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that a review of which was requested; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND and SIGNATURE this 18th day of October, 2022.



CONNIE A. RECOB, RMR, CRR
Washington Certified Court Reporter, CCR 2631
connie@lakesidereporting.com

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DEPOSITION ERRATA SHEET

Our Assignment No. 1195

Case Caption: SOTO PALMER vs. HOBBS

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript of
my Deposition taken in the captioned matter
or the same has been read to me, and
the same is true and accurate, save and
except for changes and/or corrections, if
any, as indicated by me on the DEPOSITION
ERRATA SHEET hereof, with the understanding
that I offer these changes as if still under oath.

Signed on the _____ day of _____, 2022.

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DEPOSITION ERRATA SHEET

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